

HARCOURT, J.: Yes, but were there any persons in addition to the ten of you from Port Elizabeth?----There was just the ten of us from Port Elizabeth in the Kombi.

MR. COMBRINK: Do you know the driver of the Kombi?----
I don't know his name. He could be a Coloured or an (5
Indian person; he is light in colour.

So is the position that he was not one of the ten who had left from Port Elizabeth?----No, he did not come from Port Elizabeth, the driver of the Kombi. (10

Now you have spoken about two other motor vehicles. What type of vehicles were they?----The same type of van in which we rode in.

You have already said that persons got out of those two vans. Did the three vans travel together, or did they travel separately from each other?----I cannot (15
say, because the Kombi which I was in, the curtains were drawn on the windows; I could not see.

And where you got out of your Kombi, where did the others stop? At the same place, or at different places?----
They stopped at the same spot one after the other. (20

Now the place where you stopped and got off was it in the Republic, or was it outside the Republic; do you know?----As far as I could make out, where we stopped it was still in the Republic.

HARCOURT, J.: On what do you base that?----When (25
it became light I was in Bechuanaland.

How did that indicate to you that your stop had been in the Republic?----I noticed by the boards, and also by the fence which we had jumped over. One Board was
'REPUBLIC' and the other one was 'BECHUANALAND.' (30

Where were those Boards in relation to the fence over which you had jumped?----They were a distance away from
this/.....

this fence.

Both on the same side of the fence, or one on each side of the fence?----One was either side of the fence.

MR. COMBRINK: Now you have already said that you got out of the motor vehicle in which you were travelling at (5 approximately 4:00 a.m.?----Yes.

Now what time did you arrive at the plantation in which you stayed over?----It was the early morning, getting light. I did not look at the time again.

And how had you arrived at this spot in the (10 plantation?----I don't understand how you mean.

Were you transported there, or did you go by foot? ----To the forest we walked.

Did you walk as a group or individually?-----

We were in a group. (15

Do you know who led the way?----The same person (1 who had fetched us at the station at Krugersdorp.

Now why did you remain in the plantation for two days?----They told us that there was no transport, that we should wait. (20

Who told you that?----The person who took us to Bechuanaland.

Were you in a group when this was told to you, or were you told that individually?----Seated down in a group and we were told. (25

And where were the accused at that stage?----They were also present.

Did you receive food during those two days?----- We received food on the second day.

Now how did you leave - by what means did you (30 leave from this plantation?----With a truck.

One truck, or more trucks?----One truck.

Now/.....

(2) Now you have already said that you were 38 in this group in the plantation.----Yes, we were 38.

(4) Did the 38 of you arrive at the plantation together, or did you come there one by one?----We arrived at the spot, from there we walked through the plantation on the (5 way to another forest. There we sat down and when they counted us they found out that there were six missing. Then it became night and another person came along, one of the six that was lost.

Yes?----- He was asked where the others were (10 and this person made a report.

No, I don't want a report. M'Lord, I beg your pardon, there is a complaint from the accused that they find it difficult to hear the witness and the Interpreter.

HARCOURT, J.: Mr. Rabie, I wonder if you could ask them (15 witness to speak up, and you yourself do so.

MR. COMBRINK: You said there were six missing, then one came. Did the other five come, or did they not, that is all I want to know?----This person that came along made a report, and was then asked to go and fetch the other five. (20 He left and came along with them.

And did they join you, or not?----Yes.

Now did they join you en route to the plantation or at the plantation itself?----They joined us in the forest.

Now this forest you are now speaking of, is (25 that the one where you remained for two nights, or is it the one you crossed through? You passed through?----These six joined us when we had stayed for the two nights.

You have already said that this plantation was in the vicinity of Lobatsi?----Yes. (30

Could you see Lobatsi from where you were, or could you not?----You could see it from the distance, but there was

a big road leading towards these places which we could see from this forest.

And Lobatsi is in Bechuanaland?----Yes.

(5) Now during your stay in this plantation, near Lobatsi, were you ever addressed by anyone, or not?----- (5)
A person did address us the day we left.

The day you left to go where?---To go further along.

HARCOURT:J.: Was that in the truck?----We were in the truck when we were addressed by this person. He was standing on(10 the ground and we were in the truck.

MR. COMBRINK: When you were so addressed, all of you who stayed in the plantation, were you together, or not? What is the position?----Yes, we were in the same spot.

Where were the accused during this address? (15)
----They were in the lorry.

Do you know the name of this person who spoke to you? Who addressed you?----I know his name.

Who?----He was Joe Modise.

(6) What did he say?-----He said he felt very bad (20 that the children of South Africa would leave the country to go and train: he said that he was glad that they do go for training so that they could come back and fight for their country.

Was the type of training mentioned, or not? (25)
----He told us that we would train to be soldiers; that we would learn more of it where we are going to.

Yes, what else did he say?---He told us that we should behave ourselves, look after us, and that we should remember that people in the Republic are dependent on us.(30

Now when he said people in the country needed you - is that the word, M'Lord?

HARCOURT, J.: Relying.

MR. COMBRINK: Thank you, M'Lord. Would be relying on you, what country was he referring to and what people?---He meant South Africa, our country.

And the people?----And the people in South Africa.(5

Did he say what people?----That is all he said; that the people here in South Africa were relying on us.

Was anything said concerning where you were to receive this training?----He told us that we were going to Tanganyika. (10

Did he say what place?----No, he did not tell us the place.

Was anything said by the listeners, in reply to this?---- Nobody said anything. (15

Do you know who drove the lorries - the truck? ----A Bantu person who drove the truck.

Was he part of your group, or a different person? ----No, he was not one of us. He came there with the lorry.

Yes, from there where did you go in this lorry?(20 ----We drove along, the lorry stopped; we would get food where it stopped. We arrived at Zambesi.

What is the Zambesi?----It is a river.

Yes?----We got off the lorry at the Zambesi. The lorry turned back and we took a boat and crossed the Zambesi.(25

When you say "we" took the boat, who are you referring to?----The accused now before the Court, myself, and also others who are not before the Court.

Do you know what - how many were you in this boat? ----At the time when we got on the boat we were 37. (30

Do you know what became of the 38th person?---- (Mr. Combrink adds) Who was with you in the plantation near

Lobatsi/.....

Lobatsi?-----He remained behind. He turned back.

HARCOURT, J.: Do you know what his name was?---It was Joe Modise. He is the person who turned back at the time when we were addressed in the lorry.

MR. COMBRINK: So apart from Joe Modise, how many were - how many(5 of you were in the forest, in the plantation?-----Without Modise we were 38.

Yes, and at the river you were - when you crossed you were 37?-----Yes, we were 37.

Yes, but now what became of the 38th person?---(10
not
Another person, Joe Modise, another person.

HARCOURT, J.: Do you know who he was?---I don't know him.

MR. COMBRINK: Now once you had crossed the Zambesi, do you know in what country you then were?-----When I was still in the boat there was a Board on the bank of the river on (15 which was written "SOUTHERN RHODESIA".- "NORTHERN RHODESIA."

Was it on the other side of the river, or on the side you left from?-----On the side which I crossed to.

Now from the other side of the Zambesi where did you go?-----We got into a van, the van took us to (20 Livingstone.

Do you know what type of van this was?-----It was a Land Rover.

Was it one Land Rover that took you, or more than one?-----It was one Land Rover, it didn't take us along (25 the same time.

Now can you say in how many groups it took you away?-----I can't remember how many groups we were taken away.

Where did you go?-----We arrived at the station(30 at Livingstone.

Yes, and how many were you at the station at

Livingstone?/.....

Livingstone?----The last group that was taken along was 7.

(8) I found the other 30 at the Livingstone Station.

And where were the accused at that stage?----They were all at the station.

Yes, what became of you then?-----We waited (5 there for the train. The next thing we saw the Rhodesian Police; we were detained.

Now where were you detained?----At the station.

Were you taken away from there or not?----We were removed from the station to the police station. (10

Were you together then, or were you removed separately?----I think we were removed from the station by three vans to the Police Station.

And what became of you at the police station?----European came and told us that we had no authority to (15 be there.

When this was said were you all together? Were all of you together?----(Mr. Combrink adds) Or were you told that separately?----We were told in one group.

Where were the accused then?----They were there (20 as well.

Yes, what did he tell you?----We were told that we were not allowed to be in Rhodesia.

What happened then?----This European that told us, told us that he would take us back to Francistown. (25

And then?----The same day we were taken to gaol; we slept in gaol. The next day we were taken away by truck to Southern Rhodesia.

Do you know what place in Southern Rhodesia?----I am not sure whether it was Bulawayo; I can't remember (30 the name.

Now where were the accused when you were detained throughout?/.....

throughout?----They were also there. They were also being detained.

9 Were you together in one group or were you locked up separately?----We were in a big hall similar to this courtroom where this European spoke to us at Rhodesia. (5)

From Southern Rhodesia where were you taken?-----
At Southern Rhodesia we were told that we would be taken back to South Africa.

And were you taken back?----Yes, we were taken as far as Beit's Bridge. (10)

What happened there?---There we were handed over to the South African Police, of the Republic.

How many of you?----We were 37.

Where were the accused?----They were also present.

What happened then?-----Myself and the accused (15)
were taken by truck and brought to Pretoria.

How many of you were taken by truck?-----Two trucks removed us to Pretoria.

What became of you there?----We arrived at the police station Pretoria. (20)

Were you subsequently charged with leaving the Republic?----Yes.

Now you have already said that you were charged ...
(Court intervenes)

HARCOURT, J.: He said he was sentenced. (25)

MR. COMBRINK: I beg your pardon, M'Lord. You have already said you were sentenced on the 5th April?----Yes.

What became of the accused?----We were all sentenced together, myself and the accused.

And where were you taken after sentence?---- (30)
We were taken to gaol in Pretoria.

And were you placed in gaol together, or were you -
what/.....

what is the position?----You mean one cell?

I beg your pardon, M'Lord. I shall rephrase it.

Were you in the same gaol in Pretoria or not?----Yes, we were all in the same gaol.

Did you remain in this gaol or go to another gaol?(5
----I think we were there about three weeks when 25 of us were taken away: myself and 24 others.

Yes?----We were taken to Leeukop Gaol.

Where were the accused when this move was made?----
There were some of the accused taken to Leeukop, together (10
with myself.

During the three weeks when you were detained in the Pretoria Gaol together, was anything said by anyone regarding the purpose you had in leaving the Republic? ---I will not be able to remember. It is some time ago. (15

M'Lord, I have difficulty in phrasing the next question.

Did all of you who were detained in the Livingstone Gaol - at Livingstone, by the Rhodesian Police, know why you were there, and where you were going?----- (20
(Court intervenes)

HARCOURT, J.: He can only speak for himself.

MR. COMBRINK: M'Lord, from things that occurred as a group.

HARCOURT: J.: That is a matter for argument, isn't it? You've established all that...(inaudible.) (25

MR. COMBRINK: M'Lord, that aspect of it I was to approach later.

DISCUSSION ENSUES BETWEEN THE COURT AND MR. COMBRINK.

MR. COMBRINK: M'Lord, I might approach it quite differently.

Was anything sung by this group of you while detained at Livingstone?-----No, we did not sing at Livingstone Gaol. (30

10(a) | At any time during your detention?----We started singing when leaving Livingstone by van.

What did you sing, and with what purpose in mind?
----We were singing a song.

10 | Yes, what type of song?-----Saying: "Mandela is coming, he has strength." (5

Did all of you sing, or not?-----Yes, we all sang.

Is this a song of a particular organisation, or is it a song sung by every Bantu?----It belonged to an organisation. (10

What organisation?-----The A.N.C.

And I think there is evidence that the A.N.C. is the African National Congress?-----Yes.

Now going back to the time when you crossed the border between the Republic and Bechuanaland, was anything (15 said regarding the manner in which you had to cross the border? All I want to know is was anything said, yes or no.-----We were told.

Were you told as a group or were you told as individuals?----We were told in a group. (20

HARCOURT, J.: How many were in that group?-----I would say we were 31 because the others were missing at the time. The other six. They came later. c

MR. COMBRINK: Now are you speaking about the time before you crossed the border or after you crossed the border?----- (25 We were on our way to cross this fence.

A | One other aspect, when you were addressed by Joe Modise, now all I want you to say is yes or no, was anything said regarding the purpose for which you had to receive military training. Was it said, or not?-----No. (30

B | Did you at any time either at the bush or the plantation at Lobatsi, or at any time on your trip to Livingstone, or while you were in custody, did you speak to any of the/.....

the accused before Court personally?-----Is that before our arrest?

Yes, take it before your arrest?----We used to greet one another, how - ask how they were, and where they come from. (5)

Was the purpose of your returning ever discussed? -----Yes, we would. Two of us would talk about it.

Can you recall individual conversations?----(INTERPRETER: Do you mean amongst the accused?)

Between you and the accused?-----Yes, there is (10 one of the accused I spoke to.

Which accused was that, and where?-----I spoke to Moses Masuku.

What is his name?----Moses Masuku.

That is No.12 accused, M'Lord. Did you say Moses (15 or Muzigaise; you mentioned both names.----He has two names. Moses Muzigaise Masuku.

At what stage did you speak to No.12 accused?----- It was in the lorry in Bechuanaland, we were travelling along.

What was said?----We spoke about our aims and where (20 we were going to. We would train there, and come back, and fight the boers.

Was anything else said?-----I can't remember the other that was said.

Can you recall any other individual conversations (25 with any of the accused?----- (Court intervenes)

HARGOURT, J.: Do you mean relative to the purpose for which they were trained?

MR. COMBRINK: Yes, M'Lord.-----I don't remember anybody else. (30

NO FURTHER QUESTIONS BY MR. COMBRINK:

THE COURT TAKES THE SHORT ADJOURNMENT.

ON/.....

ON RESUMPTION THE WITNESS IS WARNED HE IS STILL ON OATH TO SPEAK THE TRUTH.

CROSS-EXAMINED BY MR. LAW: Can you tell the Court the names of the ten people who travelled from Port Elizabeth to Johannesburg?-----Yes, I can. (5

Will you tell the Court.--Myself. Leighton Mpongoza, Msezile Mobepe, Manasi Sekulo, Petrus Maxapazana, Shimwell Mbuzo, Mpagamile Mbuzo, Marc Mbuzo, Joshua Mcongo, Polisile Mpoqo, the tenth person's surname was Shiya. I have forgotten his name. (TRANSCRIBER: Names are not spelt out (10 by the Interpreter.)

Yes, and there were 13 others, weren't there, as well, on this trip, apart from the accused and the ten that you have named? ----At Lobatsi?

At Lobatsi.----- (Mr. Law adds) There were 13 others (15 who went through Bechuanaland with you? There were 37 altogether? ----Yes, we were 37.

Now you say there were 14 accused and ten from Port Elizabeth?----Yes.

That leaves 13 more.----That is so. (20

Can you name them all?----There were some that were from Johannesburg. I can name some of their names.

Will you name the balance of the party that you can remember?-----Harry Mbambane. Fred.... (name unintelligible.)

How do you spell that?----Dyulu. (Spelt by the (25 witness.) Joe Xabi, Samson Hadane, Henry Magoti, Michael Mhlango. I have forgotten the names of the rest. (TRANSCRIBER: Names not spelt by the Interpreter, and are to the best of my ability.)

So there are six whose names you don't remember? (30 ----As far as I can remember the names.

Do you know it is how you can remember the name of every/.....

every one of the accused, but of the balance there are six that you cannot remember?----I see the accused in front of me, and as I see them I remember them.

Has your memory been refreshed before giving evidence about the names of the accused?-----My memory was not refreshed. (5)

Did you make a statement to the police in connection with this matter?-----I made a statement long ago, that was last year.

Was that statement in connection with this particular trial?----(Court intervenes)

HARCOURT, J.: What do you mean by "this trial"? The incidents giving rise to this trial?

MR. LAW: In relation to the incidents giving rise to this trial?----My statement which I made to the police, how I went along. (15)

Have you ever given evidence before about this trip of yours?----Yes, I did give evidence.

Was that in a case against some of your co-travellers?----Yes. (20)

How many of your co-travellers were in that case? -----Thirteen or fourteen accused, in the case in which I gave evidence.

Were you giving evidence for the State or the Defence in that case?-----I gave evidence for the State. (25)

Now when was that?-----It is last month, or the month before, I am not sure.

Whereabouts was it?----It was at Graff Reniet.

Have you given evidence in any other cases arising out of this journey?-----No, that is the only case I gave evidence in, that was at Graaff Reniet. (30)

Where are you residing at the moment?-----In

Port/.....

Port Elizabeth.

Are you working at the moment?----I am not working.

Where are you living in Port Elizabeth?-----

?
24 Pendhle Road, New Brighton, Port Elizabeth.

You were sentenced on the 5th April, were you? 1963?(5

-----Yes, April, 1963.

What sentence did you receive?----I was sentenced to two years.

Have you been released from prison?----Yes, I have been released. (10

When were you released from prison?----June, 1964.

Did you serve just over a year of your sentence, or a year and three months?-----That could be so, as counsel puts it, M'Lord.

Before you were released, were you interviewed (15 by the police at all?----Yes, they did come to me while being in gaol.

And was that when you made your statement?----I made a statement, while serving my sentence.

A How long before your release did you make that (20 statement?-----I think it was in August, 1963, when I made the statement to the police.

After taking the statement did the police approach you again?---Yes, they did come and see me again.

Approximately when was that?----February or March,(25 1964.

Do you remember who came to see you?----Yes, I can remember him.

Who was that?----Sergeant du Preez.

What was the purpose of his visit?----- I was (30 told by Sergeant du Preez that I will go to Port Alfred to go and give evidence.

Yes, /.....

Yes, and what happened?----I was taken to Port Alfred and I gave evidence there.

For the State?----Yes.

In connection with what type of case was that? -----
It was a sabotage case. (5)

Can you remember whether the accused were convicted or not?----Yes, they were sentenced.

Now when Sergeant du Preez came to see you in gaol what did he tell you your position would be if you gave evidence?-----He told me that I also still be charged. (10)
At the moment he wants me as a witness.

Did he tell you that if you gave evidence for the State you wouldn't be charged? Or didn't he tell you that?
----He did not tell me.

Was this sabotage case in connection with acts of (15)
sabotage that had been committed before you left South Africa?
----Yes, it happened before I left this country.

Were you involved in those acts of sabotage?---Yes,
I was present.

What type of acts of sabotage did that Port Alfred (20)
trial relate to?----It happened in Port Elizabeth.

What happened? What was the charge in connection with?
-----Petrol bombs were thrown in houses.

And were you involved in the throwing of petrol
bombs?----Yes. (25)

Then after that, after giving evidence in the trial
at Port Alfred did you go back to gaol?---I was taken back
to gaol.

Which gaol was that?----At Port Elizabeth.

And prior to going to Port Alfred where had you (30)
been in gaol?-----I was taken from Leeukop Gaol where I was,
to the gaol at Port Elizabeth. From Port Elizabeth I was

taken/.....

taken to Port Alfred.

Where was it that du Preez interviewed you?-----
He spoke to me in Port Elizabeth gaol.

And after giving evidence in the Port Alfred trial were you again approached by the police at any time, before (5 your release?-----They did not come again.

When did the Port Alfred trial finish?----March, 1964.

And you were released in what month?----June, 1964.

When were you asked to give evidence in the (10 case at Graaff Reinet?----I am not sure, but I think it was in February. I was asked that same week, when the case commenced at Graaff Reinet.

And who asked you to give evidence?----The officer in Court. (15

HARCOURT, J.: Do you know his name?----Lieu. v.d. Heever.

MR. LAW: And did he - what did he say to you when he asked you to give evidence? Where did he approach you first?----- He sent word that I should come and see him at his office, which I did. (20

Yes?---He told me that I had to go to a case at Graaff Reinet.

Yes?-----I then went with Lieu. v.d. Heever.

Was any indication given to you regarding what would happen to you if you didn't go to the case?----He did not (25 tell me anything.

And did he tell you what would happen to you if you did go and give evidence?----No, he just told me that I would give evidence there.

Has anyone ever told you - any policeman ever (30 told you that you could be charged with leaving the country for the purpose of undergoing military training?-----Do you

mean/.....

mean before I left, or after I had come back?

At any stage? No, after you came back.----I was told at Pretoria.

When was that?----In 1963, when we were arrested.

Have you ever been told since you were sentenced (5 to two years' imprisonment that you could be charged for agreeing to undergo military training, or anything of that sort?----I was not told.

Have you never been told that you could be charged for that offence?----No, I was not told. (10

Do you know that you could be charged for that offence? ----I know now I can be charged.

When you gave evidence in the Port Alfred trial were you warned that you were an accomplice, that you were subject to be charged with the same offence?----I was warned. (15

And were you told that you had a choice as to whether you could give evidence or not?----I was told.

And you thereafter elected to give evidence? ---- Yes. (20

What was your reason for electing to give evidence in that case?----I was taken from Leeukop Gaol, when I arrived at Port Elizabeth the police told me everything which I did before leaving the country.

Yes?-----I then came into my mind that we did this(25 sabotage alone. At that time the police did not know who did it and they did not know about it. When I came there they told me what I had done. I then knew that the people that I did it with told the police everything. I thought it was best, then, to come out with the whole truth and tell the police. (30

Yes, I understand that. Why did you elect to give evidence when you were told you had the choice as to whether

you/.....

you should give evidence or not?----I thought it best to give evidence because whatever I did is known.

Did you hope to gain any advantage from your evidence?----I did not think about it.

Did you not have the hope that if you gave your (5 evidence satisfactorily you would not be prosecuted?----I was told in Court, when the warning was given to me.

Did you not know before? Did you not have the hope before?----No, I did not have the hope before.

Were you never told before you got into the (10 court-room that if you agree to give evidence there was a possibility that you might not be charged?----I was not told.

Did the hope of avoiding prosecution not influence you in your decision to give evidence?----I was told that. What made me give evidence was because whatever I did was (15 known. I thought it best to tell the truth.

You realized that you were giving evidence against former colleagues of yours?----Yes, I had known that.

Were you a member of Mkonto before you left on this journey of yours?----I was. (20

Were all the other members of the Port Elizabeth contingent on the train to Johannesburg known to you before you left?---I did know some of them, not all.

How many of them did you know before you left?---- There were two that I knew well. (25

How many others were there, that you knew by name? ----Seven.

Seven you knew by name?----I knew two well. The other seven I knew by name.

Do you know how many of your other travelling (30 companions were members of Mkonto?----Before we left I did not know that they were members, but I did know when we left.

Did/.....

Did you know whether any of the contingent of ten which left from Port Elizabeth were members of Mkonto?-----
When we left by train I then knew that they were members of Mkonto.

No, before.-----No, I did not know before.

You did not know that any of them were members?-----
I did not know.

Did you know whether any of your companions from Port Elizabeth had ever been involved in acts of sabotage?

-----Yes, one of them that was with me when this sabotage act was done. (10)

Didn't you know that he was a member of Mkonto before you left on the train?-----No, I did not know. They would not tell you that he's a member of sabotage. I only saw him that day when the sabotage act was done. (15)

Did you and your travelling companions discuss sabotage on the way from Port Elizabeth to Johannesburg?-----
 No, we did not.

Not at all?-----Not at all.

Was the position in Port Elizabeth that you did not know who the members of Mkonto were?-----I did not know the members of Mkonto who were at Port Elizabeth. (20)

Yes?-----I only knew my leader.

Have you ever suffered from any illness?-----Yes.

What illness - major illness have you suffered from?-----Chest trouble. (25)

Is that from tuberculosis?-----I underwent an X-ray but I was never told what the exact trouble was.

Have you ever been kept in a hospital or institution as a result of your chest trouble?-----I was not detained in any hospital. If I took ill I would be at home. If I get up I go for medical attention to hospital. (30)

Was/.....

Was your chest condition a bad one?----It was very bad.

Did you suffer from this chest condition before you went on this journey through Bechuanaland?---- I had this chest trouble before I went on this journey. (5)

And would it be fair to say that you weren't a very fit, or strong person?----No, I was not properly fit.

Do you think you were fit enough to be a soldier? ----Yes, I wanted to be a soldier and I went.

When you were travelling from Johannesburg (10 in this Kombi that you have described, how many people altogether were in the Kombi in which you were travelling?----We were eleven with the driver.

When you arrived at the place where the Kombi stopped, how many vehicles were there altogether?----- (15 There were three altogether. I travelled in the third one.

Were there only three vehicles which stopped where the Kombis stopped?----Yes, it was only the one I was in and two others that stopped.

Was there not also a black motor car which stopped (20 there?----I did not see it.

If it had been there would you have seen it?---- If it stopped where we had stopped I would have seen it.

Do you know Harry Bambane?----I know him.

What would you say if he had given evidence to (25 the effect that there were three Kombis and a black motor car?-----Perhaps he had seen it at some other place.

At the place where you all got off?----I did not see a black motor car where we stopped and got off. I only saw these three Kombis. (30

How many people got out of the three Kombis? ---- I did not count them when they got out of the Kombis.

When/.....

When you crossed over the fence how did you know that that was the border between the Republic of South Africa and Bechuanaland?----I saw it in the morning when it became daylight.

When you crossed over the fence was it dark (5
or was it daylight?----It was still dark.

And did you keep walking after you had crossed over the fence?-----We walked on.

For how long did you walk after you crossed over the fence?----Fifteen to twenty minutes, about. (10

And where did you stop after the 15 or 20 minutes?
----We stopped in this plantation.

Where you remained for two days?----Yes.

How long did you walk before you crossed over the fence?----We walked for some time before we got to this (15
fence. I can't say what length of time it was.

How did you know it was 4:00 a.m. when you were unloaded from the Kombis?-----I had a watch on me which I looked at.

Did you look at your watch from time to time after(20
that?----Not continually.

Did you look at your watch when you arrived at your eventual destination at the plantation?-----No, I did not look at the time when I arrived at this place. We stayed for two days. I was tired and lay down. (25

Did you look at your watch when you were anywhere near the fence?----I did not.

How do you know that this fence was the border between the Republic of South Africa and Bechuanaland?-----I saw it when it became light from the Boards that were put (30
up.

Now when it became light you were in the plantation,

weren't/.....

weren't you?-----Yes.

You were 15-to 20 minutes walk from the fence?-----
Yes.

How did you see then that the fence was the border
between the Republic and Bechuanaland?-----I saw those (5
boards where this fence was.

And could you read what was on the boards?-----I
could read it.

From in the plantation?-----I left the group to go
to the lavatory, and there I could see what was written (10
on them.

You could read what was written on the board a
distance of 15- to 20 minutes walk away?-----Yes, I saw it and
read it.

How far did you stop from Lobatsi? How far was the (15
plantation from Lobatsi?-----You could see from where I was.
I can't say exactly what the mileage is.

Did you go into Lobatsi at all while you were there?
-----I did not.

Did you remain where you were?-----Yes. (20

Did any of the 37 go into Lobatsi?-----No nobody went.
We all remained there.

Would it surprise you if Harry Bambane says he went
into Lobatsi?-----Perhaps he may be talking of some other time
that he had gone to Lobatsi. (25

I am referring to the time that he spent in the
plantation.-----We were all there. He did not go to Lobatsi.

Didn't you have to go into Lobatsi....(inaudible).
-----We did not go.

You say that you saw these boards after you (30
- after it became light and after you stopped at your
destination?/.....

destination?-----There were two. One was either side of the fence.

How big were the boards?----(INTERPRETER: Indicates, M'Lord.)

HARCOURT:J.: About 2' 6". Were they square? About the (5 same length and height?----I am not sure whether it was the same length, or the length was the same.

MR. LAW: How were these boards erected?----(INTERPRETER: Indicates a board and at both ends would be a pole.)

What was written on the board nearest to you? (10 -----BECHUANALAND BORDER.

Just Bechuanaland Border?-----There was something else written below that.

Did you read that?----I did not read it. I could read it if I wanted to, but I did not. (15

Any reason why you did not?----I didn't worry about the rest.

And on the other Board what was written?-----The other Board was facing away from where I was standing, standing behind it. (20

What was written on it?----The Board was facing away. I could not read what was on it.

12 You see you have already told the Court that on the one board was written 'BECHUANALAND BORDER' and on the other board was written 'REPUBLIC OF SOUTH AFRICA' or (25 'SOUTH AFRICAN BORDER.'----I said the board nearest to me was the one for Bechuanaland and the other one was the one for the South African board.

HARCOURT: J.: I don't know if you want to pursue that, Mr. Law, but my note indicates that the witness said that the (30 Board indicated in South Africa. He said that when it was light he found he was in Bechuanaland. He noticed boards,

one/.....

one was in Bechuanaland, one was in the Republic. One was on either side of the fence. That is what he said in chief. I don't if you are referring to any other time?

MR. LAW: No, M'Lord, I am referring to my notes in chief. My recollection, although it is not exactly...(inaudible.) (5

So you didn't see what was written on the other Board?----I did not see it with my own eyes.

When you arrived at the plantation, how many of you arrived together?----As I have told the Court there were six that were missing from this group and it was also this (10 person leading up to this place in the plantation.

Who was missing?---There were six that were lost.

HARCOURT, J.: What you mean is the whole party plus their guide, but six were missing.

MR. LAW: I'm indented to M'Lord. Now who was the person (15 who was leading you? Do you know his name?----I don't know his name.

Did Joe Modise travel with you in the Kombis?-----

Joe Modise came to us while we were in Bechuanaland. This person that was leading us on the way then left. (20

Did he leave when Joe Modise arrived?----A short while after Joe Modise arrived this person left.

Did Joe Modise arrive before the truck arrived, or after the truck arrived?----When the truck arrived Joe Modise was already there. (25

And when the truck arrived had this other person left?----He had already left by the time the truck arrived.

Now can you remember which six people were not there when you arrived at the plantation?-----I will be able to name some of them, I remember some of them, but not all. (30

Were any of the accused amongst them?----Yes, there was.

How/.....

How many?----I know two.

And who were they?----Benati Mahlongo and Samson Nene.

No.5 and No.14.

HARCOURT: J.: It is the other way round, for the purpose (5 of the record.

MR. LAW: No.14 and No.5. Now do you know why these people did not arrive at the same time as you?----I heard what happened after they arrived.

B Yes, well we don't want to know what you heard. (10
Are you quite sure that you never went into Lobatsi and none of your party went into Lobatsi while you were in the plantation? ----I am sure we did not go there.

What time of day did you leave the plantation in the lorry?----By sunset. (15

Did you use your correct name all the way from Port Elizabeth to Rhodesia?----I used my name.

You didn't have another name to use in case you were asked your name by somebody in authority? ----
I was not given another name to use. (20

Do you know whether anyone else in your party was given another name to use? Your original party of ten?---- There were no other names given. We were calling each other by their correct names.

What time of day was it did you say you left the (25 plantation in the lorry?----Sunset.

A And you say that Joe Modise addressed you before you left?----Yes, before we left.

Where were you at the time that you were addressed? ----We were inside the lorry. (30

Was it an open lorry or a closed lorry?----It was covered with a sail. We went in underneath the sail.

And/.....

And did you all 37 of you sit on the back of the lorry?-----Joe Xaba was sitting in front of the lorry.

Where did Joe Modise stand when he addressed you?
----Still on the ground.

Whereabouts in relation to the lorry?-----He was(5 standing with Joe at the back of the lorry.

Who is the other Joe?-----Xabi.

Who sat in front?-----Joe Xabi.

When Modise addressed you in what language did he speak?-----He spoke in Xhosa. (10

Do you know where Joe Modise is from?-----I do not know.

Can you understand Xhosa?-----Yes.

What did Modise say?-----He said he felt very bad that the young children of South Africa would leave the (15 country and go and train. But he said it was all right, we must go and come back and fight the government.

Yes?-----He said that we must travel along and on the way Joe will give us money, we should look after ourselves. That was all. We then left. (20

Now I want you to think back again and consider what he said and try and give as closely as possible the sense of what he said.-----He said it was bad that the children of Africa must leave to go and train as soldiers. He said it was all right to go and train so that we could come back and (25 fight the Government. He then told us that we should know that these people from Africa rely on us, the responsibility is on our shoulders.

Yes, what else?-----We were also told that Joe will look after us and he will also give us money along the way.(30

Anything else?---There is nothing else he spoke about.

Did he not tell you where you were going?----He told us that we are going to Tanganyika to train as soldiers.

When did you first discover where you were going?

----The day I left home.

Did you know then that you were going to Tanganyika?(5

----Yes, I knew that I was going to Tanganyika.

And you knew that you were going to train as a soldier?

----Yes, I knew that I was going to be trained as a soldier. (10

In fact you knew everything that Joe Modise told you when he was standing by the lorry?----Yes, I did know where I was going to.

He didn't tell you anything that was new to you?---- He told us that we were going to Tanganyika and I already knew that. (15

Did he tell you anything that was new to you?----- That was new to me that Joe would look after us and along the way he would give us money.

I put it to you that this speech never took place.----Yes, it happened in my presence. (20

I put it to you that you are merely adding this speech into your story, to make your story sound more convincing, to show that everybody knew what they were going for?---- No, I am not adding it. I am telling the Court what has happened. (25

Incidentally at this spot where you crossed the border did you walk along a road, was there a road anywhere near there, or were you walking through the veld?----- There is a small footpath. (30

And did this footpath - was this footpath near the boards that you mentioned?----This footpath leads up to the fence/.....

fence, that is where it ends.

Does it not carry on on the other side of the fence?----There was another road leading from this fence onwards.

A road or a footpath?----A footpath, the same road, (5 footpath.

And were the boards by the footpath?----No, not the spot where we went over the fence, lower down.

How far away from where you went over?-----Stranger to this place: I can't indicate. (10

HARCOURT, J.: If you went out of the Court do you think you would be able to indicate approximately how far the Boards were from the spot?

MR. LAW: It is not very important, M'Lord.

You also saw a board when you crossed the Zambesi(15 river?----I did see one.

You were fortunate to see Boards both times and you knew exactly where you were, weren't you?-----We were all lucky because we went along where these boards were, and we saw them. (20

Now how long did it take you to travel from the plantation until the time you got on to the boat?----I am not sure whether two or three days.

Were all 37 of you arrested together?----From the banks of the Zambesi we left by a few groups, I can't (25 say how many.

When you were arrested were you all together?----
We were all brought in one group, brought together.

HARCOURT, J.: What do you mean by that? By arrest? When they were formally arrested? When they were detained? (30

MR. LAW: I will clarify that, M'Lord. When the policemen came and detained you at the station, did they find you

all/.....

all together? At the railway station? Did they find you all together?-----It is a difficult question. From the Zambesi we were taken in different groups. When we arrived there others had already been detained, and others were brought to be arrested..(inaudible.) (5)

When you arrived at Livingstone Railway Station had the others already been detained?----Yes.

You were in the last batch?----Yes, I was the last group from the Zambesi River.

Incidentally what - how long approximately did you travel from the Zambesi River to the Livingstone Railway Station?----A very long time. (10)

Have you any idea of the duration in time of the journey?----I am unable to guess the time.

Didn't - did I understand you correctly when I noted in chief, in your evidence-in-chief, that you said this: "The last group was seven. We found the other 30 at Livingstone Station. The accused were all at the station. We waited for the train. The Rhodesian Police detained us at the station." ----I was the last group of seven leaving the Zambesi River. We went to the station. Arrived there and waited for the train. While we were waiting for the train the others were pointed out to us. They were in the entrance leading into the station. They were in the presence of police. (15) (20)

So all 37 of you did not wait together for the train?----Well we seven were not with the rest of the others. (25)

Where were you going to catch a train to?----- We were told to take a train to go to Imbaye.(?)

Are you sure that is what you were told?----I am sure. (30)

Was the train there when you arrived at the station? ----It was, the train.

The train that you were due to catch?----There was a train. I can't say whether that was the train we had to take./....

take. That train we were told leaves at 9:00 o'clock. This was before 9:00 o'clock.

What do you mean when you say you waited for the train?----We were standing waiting on the platform.

For what?----For the train. (5)

Which train?---The train that would take us to Imbaye.

Did you make any effort to ascertain which was the train that was taking you?-----I did not enquire because it was not 9:00 o'clock. We were told that this train would leave (10 at 9:00 o'clock.

When you go to a station to catch a train don't you make enquiries about where the train is leaving from, what platform?-----There is only this one platform which we saw. There was not more than one platform. (15)

Didn't you make any enquiries whether that train that was standing there was the train that you had to catch? ----I did not enquire.

Did any member of your party do so?----From this group of seven? (20)

Yes?----Not from this group of seven which was with me.

I don't quite understand what you say, what you mean when you say you waited for the train.

HARCOURT, J.: Mr. Law, it seems fairly obvious he is (25 saying they were going to catch a train which they knew was leaving at 9.00 for a certain destination, and they were waiting for it. It seems to me...(inaudible.) You can pursue it if you wish to do so. They were waiting on the only platform there was.

MR. LAW: Did you not join up with your companions? The (30 30, before you were arrested?-----We were all together at the time when we were arrested, detained. The police took us to the

rest/.....

rest of the party. That is at the time we were waiting at the station.

This song: "Mandela is coming..." which you referred to, in what language are the words of that song?----In Xhosa.

Did everybody sing this song?----Everybody was (5 singing, none of the accused kept quiet. They all sang.

HARCOURT, J.: What language are you speaking now in giving your evidence?----Xhosa.

MR. LAW: When you were singing this song you were being conveyed by van from Livingstone?----Yes, we were coming (10 from Livingstone towards Southern Rhodesia when we sang this song.

And how many vans were you in?----From Livingstone Station we were in one big truck, more like a bus.

When you were being conveyed from Livingstone to (15 Rhodesia?-----We were in a big bus similar to - big truck similar to a bus.

And were all of you in the same vehicle?----Yes, all of us.

THE WITNESS STANDS DOWN: (20

THE COURT TAKES THE LONG ADJOURNMENT.

ON RESUMPTION THE WITNESS IS WARNED HE IS STILL ON OATH TO SPEAK THE TRUTH.

MR. LAW CONTINUES CROSS-EXAMINING THE WITNESS: Now I want you to think back very carefully to the arrest of the 37 (25 of you, at the railway station. Are you quite sure that every one of the 37 was arrested at the railway station?----I made a mistake. There were two of the group that had run away. They were brought along the following day.

Were there not in fact five people who were (30 arrested the following day?----As far as I know there were two or three that were arrested the following day, the Saturday.

Well/.....

Well now what was it? Two or three?-----I remember three were arrested the following day.

Could there have been more than three?---I remember the three.

A Now is it correct that accused No. 11 was one of (5 those three, or one of those who was arrested the following day? Accused No. 11?----Yes, Antony Xaba was arrested the following day.

Why did you tell the Court that everyone was arrested at the railway station?---I made a mistake. This happened (10 some time ago.

Is your memory not too clear about the events which took place on this trip?---It is clear. I am still clear but just this mistake I made.

Have you made any other mistakes?----I noticed no (15 other mistake I have made.

You noticed no other mistakes?----I see no other mistake which I made.

Is it possible that you have made any other mistake? -----No, I know of no other mistake I have made. (20

You don't seem quite sure?-----I am sure.

Now surely your arrest is the one thing that should stick out in your memory?----That is correct.

Now I put it to you that this place that you were in in the plantation was a great deal further from the border (25 than you say it was?----- (Mr. Law adds) The place where you spent two days? I put it to you that it is a lot further than 15- to 20 minutes walk from the border?----We ran and walked. We were hurrying to get there. It was quite a distance away.

I put it to you that you could not possibly (30 read the signboards at the border from the plantation?---- I could see it.

Could/.....

Could you see the words on it?-----Yes.

Do you know a mile?----Yes.

Do you know how far a mile is?----I know the distance of a mile.

Was it closer than a mile, or further than a mile(5 from the border?----(Court intervenes)

HARCOURT, J.: Just before you answer. Mr. Law you say from the border; do you mean from the border at the spot where you cross it? (Inaudible.)

MR. LAW: Were you a mile, or more than a mile from the sign-(10 boards when you saw them?----It would not be more than a mile.

Would it be as much as a mile?----It would be a little less than a mile.

Do you know - are you able to calculate distances in yards?-----I cannot. (15

How long would it take you, do you think, to walk from the spot where you crossed the border to the spot where these signboards that you saw were?----No, I did not have my mind on that, to take such particular notice of that. My mind was fixed on what I was doing, and where I was going to.(20

Could you estimate the distance outside, if you were taken outside the Court? Could you estimate the spot where you crossed the border to the signboards that you saw? ---I saw these signboards when I was in this forest. I came out of the forest, then I saw the signboards. I did not see(25 the signboards when crossing this fence to go to the forest.

And the signboard was close to the fence was it? -----Yes. It was near the fence.

I put it to you that you could not see the border fence from that plantation, or from anywhere near the (30 plantation?----- (Court intervenes)

HARCOURT, J.: (Inaudible) couldn't see the fence from the plantation?/.....

plantation? From the plantation he could not see the fence? Is that what you put? Not the border?----- (INTERPRETER: I'm sorry, M'Lord.) We were right inside the plantation we were sitting there at a spot. When you leave to relieve yourself you go out of the plantation. You could then (5
the fence
see-if you are out of the plantation.

MR. LAW: Did you walk a long way to relieve yourself?-----
You walk a distance away from the other people.

HARCOURT, J.: Mr. Law, this appears to be a matter of importance. Would you wish the witness to go out to indicate how (10
far he went from where they were to the place where he relieved himself, and then how far it was from where he relieved himself to the fence and boards which he claims to have seen.

MR. LAW: M'Lord, I would appreciate that. It would also, I think, considerably shorten the questions I have to ask. (15

HARCOURT, J.: Would you like to go out with him and have those distances pointed out.

MR. LAW: As your Lordship pleases.

HARCOURT, J.: Mr. Combrink you are, of course, at liberty to go with him. (20

Is there agreement about the distances pointed out?

MR. COMBRINK: On the question what the distance was from the spot from where you were standing when you saw the board to the board itself on the occasion when you went to relieve yourself. That distance is indicated at 80 paces, M'Lord. (25

Second question. The distance from the place where you stayed in the plantation to the place where you went on the occasion when you went to relieve yourself to the boards. 650 feet? M'Lord.

MR. LAW: I confirm that those distances have been agreed, (30
M'Lord.

Is there any particular reason why you went so far
to/.....

to relieve yourself?----The reason why is also to stretch my legs.

You hadn't had enough leg-stretching during the night?----I did not stretch my legs during the night.

Hadn't you been walking the whole night?----- (5
No, we were not walking during the night.

Was it the following day that you saw it?----Yes, after arriving there.

You spent a day there and then you saw the boards? ----That morning I saw it, after arriving. (10

After you had been walking? After you had been walking from where the Kombis dropped you?----Yes.

You felt the need to stretch your legs after that walk?----Yes, I was sitting upright with my legs in the van, and I stretched my legs. (15

But you had already walked for about two or three hours?----At the place we arrived we sat down, and after walking I stretched my legs.

I put it to you that you were a great deal further from the nearest point of the border than the distance you have(2 pointed out here?----As far as I can make out, that was the distance.

Now would it surprise you if someone to give evidence to the effect, someone other than the accused, who was on that trip, were to give evidence to the effect that it was (25 possible that some of the members of the party didn't know the purpose for which they were going?----I would be surprised because at the time we were told he was present.

Who was present?----I mean the person which you say would give that evidence. (30

And who is that?----Well you say one of them that was with me.

You/.....

You don't know who I was referring to?----I don't know the person; but if you say he was one of the persons who travelled with us.

NO FURTHER QUESTIONS BY MR. LAW:

HARCOURT, J.: Mr. Law, is there no direct challenge to (5
identification about this...(inaudible.)

MR. LAW: M'Lord, there is no direct challenge to identification. I will have to offer M'Lord an explanation at some later stage; but I will do so at a later stage. But I advisedly don't challenge....(Court intervenes) (10

HARCOURT, J.: Yes. That is all I want to know; that you have applied your mind to it. I don't want the witness to be called from all over the Republic to have direct challenges put to him later. I don't want to know your reasons at this stage; I just want to know that you are aware of what ...(inaudible)(15
in my mind.

MR. LAW: Yes, M'Lord, I am aware of that.

CROSS-EXAMINED BY MR. FULLER: These fourteen accused, you say they were arrested with you at Livingstone?-----Yes.

They were then detained with you?-----We were all(20
together in Rhodesia.

They were arrested with you?----When I arrived they were already being detained at the station. I was the last group to arrive at the station.

But you were all taken to a room similar to this(25
court room?-----Yes, we were all taken and put in a room similar to this.

You all travelled in the same bus coming back south, to South Africa?----We got into one bus from northern Rhodesia. We travelled to a place, I don't know the name. There we (30
were divided. We travelled in two vehicles.

You all appeared before the Regional Magistrate's

Court/.....

13
 Court in Pretoria?-----Yes, we were all convicted on the same day.

Yes, just answer yes or no, I don't want details.
 You were all sentenced together?----Yes.

You were all sent to Leeukop Prison together?(5
 -----No.

You were all sent to prison?----We were sent to Prison.

Did not the accused go to Leeukop?----Some of them did go to Leeukop. (10

Did you go to Leeukop?----I did go to Leeukop.

From the time that you were arrested up to at least the time that you were sentenced you got to know these fourteen people quite well?-----Yes, I knew them better after we were together, after being in Court. (15

And in that time, even if you hadn't known them before, you'd have had plenty of opportunity to have got to know their names?-----I did know them before we were taken to Court. I knew them better while the trial was on.

Just listen to the questions please. Even if (20
 you hadn't have met them before you would have had plenty of opportunity after your arrest and the time that you were with them to have got to know their names?----I did know them before the case.

Now when you were recruited you knew where you(25
 were going?-----I was told where I was going to.

That was to Tanganyika?----Yes.

Was any specific place mentioned?----It was said Tanganyika.

So it appeared that the people who recruited you(30
 and those who recruited your colleagues knew quite well about this scheme and where the training was to take place?

-----/.....

-----Yes, they should know because they were senior to me.

Does it surprise you that the Maritzburg people, and Durban people, and Charlstown people, didn't know - people of Natal - didn't know where they were going?-----In Bechuanaland they were told where they were going to. They (5 then knew where they were going to.

Please, this is the fourth time I have had to ask you. Listen to the questions. Does it surprise you that the Natal people didn't know when they were recruited where they were going?-----It can surprise me. I don't know what (10 happened.

You are a Xhosa?-----I am.

All the accused before Court are Zulus, is that correct?-----Yes.

When you stopped and got out of the Kombi early (15 that morning at about 4:00 ^{o'clock} you didn't know who were in the other two vehicles, did you?-----I did not know who they were.

You don't know how many got out?-----At that time I (20 did not count them.

Now with regard to your stay in the plantation in Bechuanaland. I put it to you that you only spent portion of that one day in the plantation?-----I stayed there two days. Left there on the third day.

I put it to you that it started raining that (25 afternoon that you had arrived and in the middle of that night you were moved to a house near Lobatsi?-----No, we were not taken away. It did rain, but we remained there.

There appeared to be no restriction upon your (30 movements when you were in the forest?-----There was restrictions. We could not go about as we wished.

Well you appeared to?-----How?

You?.....

You walked a distance of over 200 yards to stretch your legs. You relieved nature wherever you wished.----- I used to say where I was going. If I did go to the toilet I told them.

Yes, well as long as you told them there was no (5 restriction.----I asked permission if I want to go to the(inaudible.)

A I put it to you that accused No.9 went into Lobatsi that first day?-----I deny that. I was with him. He did not go there. (10

Were you with him all the time?----All this time that we were there we were all together.

You weren't there? You walked away for a while?----- Yes, I admit that. I went to the toilet.

Do you know how far Lobatsi is from the Bechuanland(15 border?----I will not be able to know.

You were quite close to Lobatsi where you were encamped in the forest?-----I t was a distance away as far as I could see the houses.

A Now you first of all in answer to a direct question (20 put by the prosecutor you stated that nothing was said by Joe Modise as to why you were to undergo training.----I did tell the Court that Joe Modise told us to train as soldiers and come back and fight the State here.

I put it to you you did not say that when the (25 prosecutor put the direct question: "Was the reason given?" and you said: "No."----I did tell the prosecutor when he put the question to me.

HARCOURT, J.: You did tell him what?-----I told the Court that Joe Modise told us that we would go to Tanganyika to train (30 as soldiers and come back and fight the Government.

My note of it is after you had given the contents

of/.....

7B
A
of this encouragement by Modise, sometime after that you were asked, right at the end of your examination-in-chief "Was the purpose of military training mentioned?" and you said nothing was said.-----It could be the interpreter misunderstood me. (5

MR. FULLER: Why should the interpreter misunderstand you?
-----It could be the interpreter that misunderstood me.

You understand English, don't you, Gladstone?-----
I understand a little.

And Xhosa, your own language?----Yes. (10

You know what the interpreter is translating, you know what I am saying, even before it is put to you in Xhosa?
-----I don't understand all the questions.

Am I correct in saying that this is not the first time you have blamed the interpreter when you have given (15
evidence in trials?-----This is the first time I did not
...(inaudible.)

You see the reason why the prosecutor had to ask you that question was because when he originally asked you what Joe Modise had said, this is what you said: "He said (20
that he felt very bad that children of South African should have to leave the country and go and train. That he was glad they would train and come back to fight for their country. He said we would be trained as soldiers. He said we should remember that people in South Africa were relying upon us..." (25
(Court intervenes)

HARCOURT, J.: No, no no. There is more than that. "He said we would learn more where we were going to." "He said we had to behave ourselves." And then if you take it up (30
Mr. Fuller..."People in the Republic would be relying upon us."

MR. FULLER: And then the question was put to you, and you agreed, that he didn't specifically mention the Bantu people.

/.....

I take it when he said "fight for your country" he never mentioned for the Bantus in this country?----- (No reply given up.)

HARCOURT, J.: Do you agree with that?-----Yes.

MR. FULLER: I put it to you that Joe Modise did not speak (5 to you at all when you were on the truck?----(Silence.)

HARCOURT, J.: Yes, Mr. Interpreter?-----He did speak to us. If any of the others wish to give evidence they can give the same evidence as I am giving to the Court now.

MR. FULLER: Well alternatively, I put it to you, that if he (10 did speak to you that was all he said, that it was sad ^{that} the children of this country should have to leave to go and learn to fight for their country.----That is not all what he said.

With regard to accused No.10, that is Osborne Mthunywa, I put it to you that he did not travel with you at all. (15 The first time you met him was in Livingstone.----No, that is wrong.

I put it to you that you are able to quote his names to this Court because you have been in his company so often since that day in Livingstone when you were arrested. (20 ----He is wrong.

And I put similarly as far as accused No.12, Masuku, is concerned, you too did not see him before Livingstone? ----No, Masuku is wrong if he says that.

What language did you say Joe Modise spoke in?---(25 He spoke Xhosa.

You say the accused are Zulus?----They are Zulus.

When you travelled from Livingstone was this a bus in which you were travelling? In fact it wasn't a truck or a lorry? When this song was sung?----Travelling from (30 Livingstone?

Coming south?-----It was a bus, not a big one, and it/.....

it had seats inside.

And have you ever heard of SACTU?-----No.

It stands for the South African Congress of Trade Unions: have you ever heard that?----I have heard of the Trade Unions. (5

And, of course, you've heard of the A.N.C.?-----
Yes.

The A.N.C. divorced from 'Mkonto' was not a military organisation, was it?-----I don't understand the question.

Did you belong to the African National Congress? (10
-----No, I was not.

Did you only join Mkonto?-----That is so.

Would you be in any position to dispute it if evidence were to be given that this song: "Mandela is coming.." is something that was commonly sung at A.N.C. meetings? (15
---I will not deny it.

In fact it is a song which is quite popular amongst some Bantu people, isn't it?----The Bantu people know that song.

In fact there is even an English version: "Mandela(20
is coming, don't get weary.." have you heard that version?
---The one we sang is: "Mandela is coming, he has strength."

So there is nothing really sinister about this song, is there?----I am just telling the Court the song we sang.

It is just a song as far as you are concerned?---(25
Yes, it is a song.

And do you agree that the Bantu people generally are prone to singing?-----I don't know...(inaudible.)

(At this stage Mr. Fuller states he has no further questions.)

HARCOURT, J.: Mr. Fuller, I make a plain enquiry in regard(30
to your clients other than ten and twelve?

MR. FULLER: M'Lord, 4 and 9 are the ones your Lordship

refers/.....

refers to.

HARCOURT, J.: I just want to know that you are aware of(Mr. Fuller intervenes)

MR. FULLER: I am aware of that, M'Lord, that most of the evidence I haven't cross-examined is common cause. I'M sorry,(5 M'Lord, there is one important feature which I did just overlook, if I may just put it.

HARCOURT, J.: Yes.

MR. FULLER: You told us about having spoken to accused No. 12 in the lorry in Bechuanaland. That is Masuku?----Yes, (10 we conversed.

Did you speak to lots of people on that journey?
----There would be general conversation, one would speak to the other, and so on.

Everybody in quite good spirits?----Yes, everybo-(15 dy was at ease, they were conversing with one another.

And I suppose singing as well, odd occasions?----
Yes, sometimes there would be quiet, and sometimes they would sing.

And approximately how long did it take you from (20 the time you left Lobatsi until the time you got to the Zambesi?
----If I am not mistaken about two or three days.

So you were in each other's company for a long time?
----Yes, we were all together at the time.

You were travelling for quite a long distance on(25 this lorry?----Yes, it was a long road we travelled.

Do you remember details of every single conversation you had with every person during those two or three days?----
I will be unable to remember it.

How can you remember specifically having spoken (30 to accused No.12 on the lorry in Bechuanaland?----He was a person I spoke to you most. He used to tell me where he worked

and/.....

and so on, and always be together, and we spoke to one another.

I take it that you spoke, as you said, to many other people as well?----I spoke to all of them.

Why should you specifically mention having discussed your aims and ideals with him?----He is a person I remember (5 talking to.

I put it to you, firstly, accused No.12 was not on that lorry at all.----Who is No.12?

Masuke, the person we are talking about.----He was on the lorry. He told me the hospital he worked. Also told (10 me about the bomb(?), at the hospital he worked McCord.

McCord Hospital.----McCord.

Are you sure he didn't tell you this after he was arrested in Livingstone?----He told me on our journey and he also told me after we were in gaol in Leeukop. (15

Secondly, I put it to you you cannot remember specifically having a conversation - particular conversation with one person on that journey.----I also spoke to the others, but I cannot remember everything which was said.

NO FURTHER QUESTIONS BY MR. FULLER: (20

RE-EXAMINED BY MR. COMBRINK: You said that whilst you were staying in the plantation near Lobatsi that every time you went to relieve yourself you used to tell them where you were going? ----Yes, I used to tell them I was going to the toilet.

Why did you have to tell them that?----- He was (25 in charge of us, that is why I should tell him.

Yes, now who was in charge of you?-----The first one who was in charge of us was the one who led us to this place.

And apart from you did others ask him permission(30 if they wanted to relieve themselves?-----Yes, they also asked permission if they left.

Did/.....

Did you ever go to - at any stage during the time you were in Lobatsi - go to the Immigration Officer?-----
(No reply.)

Did you go into Lobatsi?----I remember that we did go but I have forgotten it. (5)

Now when did you go to Lobatsi?-----I am not sure whether it was the morning of the second day or the third day.

HARCOURT, J.: When you ask : "Did you go to Lobatsi?" do you mean "you" personally, in the singular, or "we", meaning all members of the party?----We all went. (10)

MR. COMBRINK: Did you go as a group?- Or what is the position, when you say you all went?----We went in rows of five, following one another.

And what did you have to do in Lobatsi?-----We signed forms when we arrived there. (15)

Do you know what type of form this was?----I don't know what it is but I think it is permit en route.

Now you have already told the Court that six persons had apparently lost their way?----Yes.

You said that they joined the 30-odd of you at the(20) plantation?----They came to us in the plantation in the morning.

And you say accused No.14 and 5 you said were in this group?-----Bernard and Samson.

That is correct. And you say an explanation (25) was given why they - where they had been?----Yes.

Now who gave the explanation, firstly?-----Bernard, accused No.14.

Where was accused No.5 at the time the explanation was made?---They were all together at the time, all those (30) that lost their way.

And where were the other accused?----They were

all/.....

all sitting down at the time.

With you, or elsewhere?----We were all sitting in a group.

Very well, what was the explanation?---They explained that we were ahead and it was dark when we entered the plantation, they could not see us. (5

Yes, was anything else said?-----And they said that they entered through the gate.

Entered what through the gate?----They said there was a fence and there was a fence and they went through this gate. (10

Was anything else said?----They said that they had gone to the station thinking that we had gone to the station. And they said they could not find us there. They looked around until they found us. Harry Bambane went out and he found us. Harry is the person who came to us and he was asked to go and look for the other five, and brought them along. (15

Now the explanation, you said, came from - I beg your pardon, M'Lord, the explanation you gave the Court now, (20 from whom did it come?

HARCOURT, J.: Given by accused No.14.

MR. COMBRINK: Thank you M'Lord.

At the time when you were approached at Port Elizabeth by Ntwalo, was your chest complaint mentioned or not? (25 -----I told him that I was not well and that I should tell my relatives first.

Are you - what language do you speak?----Xhosa.

Do you speak Zulu?----I am not fully acquainted with Zulu. (30

Would you, as a Xhosa, speaking only Xhosa, understand a person only speaking Zulu, or not?-----Yes, I can understand one/.....

one another, like they understand me now in Court.

And when you spoke to accused No.12, that is Masuku, what language did you speak in?-----I spoke in Xhosa and I would use Zulu words here and there.

HARCOURT, J.: What language did he speak?----He spoke Zulu and he used to use Xhosa words here and there. (5)

MR. COMBRINK: At the time when Joe Modise addressed you at the truck was any explanation asked by anyone or not, concerning what he had to say?----They did not say anything at that time. (10)

M'Lord I now require the use of what I am now going to put to the witness, a little later. I approach your Lordship first, regarding the question I am about to ask. I want the witness, if possible to repeat what he had said in the terms of the address by Joe Modise. In his own language - in Xhosa, in other words. (15)

HARCOURT, J.: Well we have had three occasions when he has repeated what he said. You led him in full....(Mr. Combrink intervenes)

MR. COMBRINK: And twice in cross-examination. (20)

HARCOURT, J.: Mr. Law led him again and then Mr. Law asked him for the and he got it. So if you want it a fourth time, you may have it Mr. Combrink, but we have had three occasions on which he has been asked. (25)

MR. COMBRINK: M'Lord, I shan't take the Court through the tedium of that again.

NO FURTHER QUESTIONS BY MR. COMBRINK:

HARCOURT, J.: On your travels did you meet a person by the name of William Msimang?-----There was a person William Msimang with us. (30)

Where was he?----(Court adds) Of all the places you/.....

you have mentioned?-----He was there at the place where we first met in Bechuanaland.

Yes?-----And from there as we travelled to the place where we were arrested, he was in our company.

All the time?----Yes, all the time. (5

Was he present when Joe Modise delivered this or talk, exhortation, or harangue, -or whatever you like to call it?

-----Yes, he was, inside the lorry.

Did he in particular make any enquiry or question to Joe Modise at all?----No, nobody made enquiries from Joe Modise. (10

Did you speak to this person William Msimang at all?

----I remember that I did speak to him.

Did you learn what work he did, or where he lived?

-----He told me the kind of work he did. (15

What work did you understand he did?----He told me that he was first a teacher, and later an interpreter in Court. I have forgotten the place where he told me he lived.

Did you gather any impression as to why he was undertaking the journey which you were all undertaking? (20

----We were all warned at the same time, we were all together, and I was under the impression that he goes to where we are going to as well.

Well did you gather any impression from him?-----

No, I did not, but he accompanied us. (25

During cross-examination by Mr. Fuller, that is the second defence counsel who cross-examined you, he put to you that accused No.9 went into Lobatsi. That is Paulus. Now as I understood you you denied that saying that you were with him and he did not go.----That is correct. (30

Subsequently I understood you to say that all of you went into Lobatsi in groups of five to sign certain

forms/.....

forms which you believed to be permits en route?-----Yes.

Did accused No.9 go into Lobatsi to sign such a permit?---He also went.

Why did you deny that he went into Lobatsi when it was put to you?----I had forgotten at that stage when I (5 was asked. It later came to me.

Surely when counsel specifically puts that one of the accused - No.9 in this case - did a particular thing, you couldn't forget about that, could you?-----I had forgotten because I myself had forgotten that I had gone into (10 Lobatsi.

Did you yourself attach any significance at the time to the singing of this song concerning Mandela?----I ^{happy} felt about singing it, singing that Mandela was coming and has strength. (15

Why were you happy? In singing it, I mean?----It is a nice song and I like singing it.

And was it the only song that you sang in your journey from Livingstone southwards?-----No, after that there were many other songs sung. (20

And were they the variety of songs that young Bantu men gather together and usually sing?----Yes, also songs similar to that mentioned.

Do you know the English term a "hit parade" about songs?-----No. (25

At any rate when you were singing these various songs did you attach any particular political importance to your singing?-----I was a politician at the time...(inaudible.)

The songs you were singing there you had heard frequently before? ----Yes, I heard them before. (30

And you had probably sung them before at New Brighton, long before you went on this journey?-----Yes, songs

we/.....

we sang, sang before, long time before.

Yes, and you sang them on various social occasions?
 -----Yes, they are also songs that we have on records at home.

I ask you again, did you attach any particular (5 significance to the fact that you were singing songs in that bus?-----I say when singing this I felt strong, expecting him to come along and come back with us.

Do you know how old you are?----I was born in 1939.

You are 26 this year, are you?----Yes. (10

And what standard of education did you attain?---- Standard six. I went as far as standard six, but did not pass it.

You passed standard five?----Yes.

And as one subject of your schooling did you take (15 English?----I did learn English at school.

PART NOT RECORDED.

HARCOURT, J.: Could you please play back the last questions asked by Mr. Niehaus? Which are recorded, because we do not know how far the machine got. (20

RECORD IS PLAYED BACK.

QUESTIONS BY MR. NIEHAUS: On your way to Livingstone did you mention your chest troubles to any of your companions?
 ----Yes, I did speak about it.

To whom?----I think they all know about it, (25 because I mentioned it in general, not to a particular person.

Now why did you mention that?-----Just asked one another how it was, how he was keeping, and I just mentioned in general conversation.

38 of you arrived in the plantation in Bechuanaland (30 you said?----Yes, we were 38 in the plantation in Bechuanaland.

And I think you told the Court that 37 left?-----

Yes./.....

Yes.

Now the one that did not accompany you to Livingstone, can you tell the Court from which group he was?-----
The 38th person is the person who fetched us from Krugersdorp station. (5

NO FURTHER QUESTIONS BY MR. NIEHAUS:

NO FURTHER QUESTIONS BY MR. COMBRINK:

NO FURTHER QUESTIONS BY MR. LAW.

MR. LAW: M'Lord, not as a question, but may I compare my note of the lost answer when the microphone broke. (10

HARCOURT, J.: The note I have is: "In regard to your chest trouble I told no one on the journey to Livingstone about it. I mentioned the chest trouble to one of my companions, I can't say who." Those are the two answers I recorded when the machine wasn't working. (15

MR. LAW: M'Lord, the answers I recorded were: "I had no chest trouble on the journey."

HARCOURT, J.: Yes, none on the journey.

MR. LAW: "I think I did tell one of them I had chest trouble." (20

HARCOURT, J.: Yes, "I can't say whom."

MR. LAW: "I think they knew."

HARCOURT, J.: I am sorry, when I said no one it is none, he had none on the journey.

MR. LAW. As M'Lord pleases. (25

NO QUESTIONS BY MR. FULLER:

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