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IN THE SUPREME COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION)

CASE NO.: CC. 72/76.

GRAHAMSTOWN,

9th and 10th JUNE, 1976.

THE STATE

versus

SOTOMELA NDUKWANA AND FOUR OTHERS

VOLUME 3

(Pages 242 - 356).

LUBBE RECORDINGS (PRETORIA)

THE COURT RESUMES ON THE 9th JUNE, 1976.

MR ENGELBRECHT: M'Lord, I would at this stage again like to bring under Your Lordship's notice that it seems that the condition of the witness Baleni has not improved at all but in fact it would appear that it worsened and Dr Pentz has again seen him this morning and he is present to testify as to Baleni's condition.

BY THE COURT: Yes, I would like to hear Dr Pentz. Have you any objection, Mr Kies?

MR KIES: No objection. (10)

ANTON JASPER PENTZ: sworn states:

BY THE COURT: Have you again seen the witness Baleni? -- I saw him again this morning.

And what is your view of his condition? -- Well, he certainly, as Mr Engelbrecht has said, has worsened. He is in a psychotic state, he appears out of context with reality. His whole behaviour and manner is inappropriate. He is making bizarre movements with his whole body, he has taken virtually all his clothes off, he hasn't had any breakfast and one cannot get through to him, one cannot communicate with him at all. If one says anything to him he just has a silly inappropriate smile on his face. (20)

All of which means that he is not in a fit state to give evidence. -- No, he would not be able to give evidence at all.

Could he receive medical attention? -- I believe he should.

Is he receiving any, to your knowledge? -- I believe he did receive some tranquilliser. I do not know whether he is still receiving it at the moment.

Are you able to say how long this state will continue?-- Well, I do not know what it is. It is difficult for me to give a prognosis. All I can say is he is psychotic and his/... (30)

0.245-

Ruling to be
inserted

late.

MR ENGELBRECHT: The prison authorities have indicated that the person Qupe who yesterday refused to give evidence, has requested to be brought to court again and he is here available if this is a convenient stage for Your Lordship to find out what he actually wants.

BY THE COURT: Yes, let him come forward. You are Don Mlungiseleli Jongwiye Qupe? -- Yes.

Yesterday when you were called as a witness, you took the oath, but then stated that you did not wish to give evidence. -- That is correct. (10)

And as a result you were sentenced to imprisonment in terms of Section 212 of the Criminal Code. -- Yes.

I am told by the Prosecutor that you wished to come to Court today to say something. Is that so? -- Yes.

What is it that you wish to say? -- I wish to give evidence.

What is your attitude, Mr Engelbrecht?

MR ENGELBRECHT: That the witness should then be sworn and be given an opportunity to give his evidence.

DON MLUNGISELELI JONGWIYSE QUPE: sworn states: (20)

EXAMINATION BY MR MULLER: You attended the Healdtown High School in the district of Fort Beaufort during 1975? -- Yes.

You mentioned that you joined an organisation known as SASM. -- Yes.

When did you join this organisation? -- September.

Who introduced this organisation to you? -- Stanley Gqajela.

No. 20 on the list. Can you tell the Court under what circumstances did you find out from this person Gqajela about SASM? How it happened? -- He was expelled from school (30) and he then resided at the Tshoga Location.

QUPE

He was expelled from Healdtown. -- Yes.

Did he still attend class, but was expelled from the hostel or what was the position? -- He had left.

BY THE COURT: Left the school entirely or just left the hostel? -- He was expelled, he left.

Ask him to speak as loudly as he can; there are a number of people who want to hear him in Xhosa as well as hearing the translation. -- And I teased him about the fact that he had been expelled.

MR MULLER: Why was he expelled? -- He had been to the (10) girls' hostel.

Yes, you teased him and then? -- Well, that was the end of that. He said: I am a friend of yours and he was going to confide in me.

BY THE COURT: I do not know to what extent this evidence is admissible. I have had no objection from you thus far.

MR KIES: I am glad Your Lordship drew my attention. I have been thinking of something else. Surely it is not admissible. None of the accused apparently was present.

BY THE COURT: Mr Muller has not laid a foundation yet (20) for its admissibility. What do you say, Mr Muller?

MR MULLER: The only ground of admissibility of this evidence is that it explains the actions of this witness.

BY THE COURT: Are you leading it for historical value only?

MR MULLER: Yes.

BY THE COURT: Not as truth of the contents of the conversation between this witness and Gqajela?

MR MULLER: That is indeed so.

BY THE COURT: Yes, very well.

MR MULLER: Am I allowed to continue on this line? (30)

BY THE COURT: Yes, on that basis you can go on.

MR MULLER: He said he wanted to confide in you. -- He said he would be pleased if I would go along with what he was going to tell me. He told me too that it has been a long time now that he wanted to tell me. He said there was a movement at Healdtown and he said he would be pleased if I would join it. I said what are the aims of this movement? He told me to love your people, to live in unity with them. I said where are these meetings held.

And he told you. -- He told me that there was no actual venue and that he would call me if I decided to join. (10)
So I agreed.

Did you then join this organisation? -- Yes.

Did you attend any meetings of this organisation? -- I did.

Tell us how it came that you attended the first meeting? --

Gqajela came to my dormitory.

When was that more or less? -- The 19th September.

Yes? -- He told me a meeting was to be held. He was accompanied by Ngcola Hempe.

Who is Ngcola Hempe? -- He is an accused.

Do you see him in court? -- I do. (20)

Is that accused No. 4? -- No. 4. 4

Yes, you accompanied him where to? -- To the meeting place in the cellar.

Did you arrive there? -- Yes.

And can you tell us how you arrived at the meeting, what happened, what took place when you arrived at the meeting? -- We entered, that is on our arrival. It was dark. There was singing. The song was Mayibuye E Afrika. And they shouted 'Amandla'.

Who shouted? -- Gqajela and Ngcola. 4 (30)

Yes? -- As it was dark someone said a candle was to be brought/...

brought or a torch.

Was there any reaction to their shouting 'Amandla'? -- Yes.

What reaction? -- The crowd inside said 'Ngawetu'.

Yes? -- Then a torch or a candle was asked for so that it would not be dark inside.

Was anything done about this? -- Koko went out and returned with a candle.

Who did? -- Koko.

Who is Koko? -- Accused No. 5. The candle was lit and S then I saw the persons who were within the cellar. (10)

Can you remember some of these persons present? -- Yes.

Mention them please. -- Vuyo Baleni, Ngcola Hempe, myself.

Who is Ngcola Hempe? -- Accused No. 4. 4

As you said previously. Yes? -- Myself, Zokufa Zolile.

That is No. 18 on the list. -- Accused No. 3, Nonwabisi

Yako.

That will be No. 6 on the annexure. -- Kholekile Tata, Kahle Nyanda.

I am unable to say whether that is No. 16 on the annexure.

BY THE COURT: Is Kahle the same person as Tamsanqa? (20)

-- I do not know.

MR MULLER: Who is the last person you mentioned? -- Sinxo.

BY THE COURT: Is that Wilberforce? -- Yes.

Wilberforce Sinxo? -- Yes.

No. 2. -- Kaya Matoti.

MR MULLER: That is No. 7 on the annexure. -- Fumanikele Mgawana.

Not on the annexure. -- Rola. Joseph Moyo.

Not on the list. Can you remember anyone else? If you cannot, you can say so. Do you remember anyone else? (30)

-- (No reply)

Anyway/...

Anyway, you noticed these people when the candle was lit and what happened further on in this meeting? -- Accused No. 3 told the new members to introduce themselves and so we did. 3

Did the new members introduce themselves? -- Yes.

In what manner? How did they do that? -- Stood up and introduced yourself.

After the introduction? -- He told us .. (intervenes)

Who is that now? -- Accused No. 3. That the meeting is not for babies, but for men and that we should keep the existence of the meeting secret. And then he told us the (10) meaning of SASM, that is the South African Students Movement. He told us that the movement has its own constitution and if somebody wants a constitution, it is obtainable from him or accused No. 4 or Gqajela. He also told us about the two phases. 3

BY THE COURT: Faces or phases? -- Phases.

What is it in Xhosa? -- I do not know.

What is it, Mr Interpreter? -- Phases - p-h-a. The first phase is to be conscious and be a proud Black man and to hate the Whites. The second phase is to leave the country and go for military training and then he told us - after he said (20) these things Stanley Gqajela stood up and told us that accused No. 3 has said everything and there was no use for him to say anything. The only thing to do now is to go for military training. After this he said - I beg your pardon - sat down. Accused No. 3 then stood up again introducing Stanley Gayisa as the poet of SASM. 3

MR MULLER: That would be No. 9 on the annexure. And then Stanley Gayisa stood up, reciting a poem 'Garimpi'.

What does that mean? -- He recited this poem 'Garimpi'.

Yes, is 'Garimpi' a Xhosa word? -- I do not know (30) whether it is. It was the first time that I had heard it.

What/...

What does it mean? -- The meaning I can say it was a call, although I did not follow the meaning, addressing the Black man to stand up and fight for our forefathers' land.

Was this a long poem or a short one? Can you give us any indication as to the length? -- It was not so long.

After this poem was recited, what followed? -- He sat down. Then accused No. 3 told us that there were people sent to recruit some in Timbasa, Alice and Middledrift. Accused No. 4 stood up, told us that he had gone to Alice and recruited nurses and after this Kholekile Tata, accompanied by Stanley Gayisa. (10)

That is No. 4 and 9 respectively. -- They went to Timbasa and tried to recruit a social worker.

BY THE COURT: How do you know this? Is it admissible from this witness? -- This was said by Kholekile Tata.

MR MULLER: According to .. (intervenes)

BY THE COURT: Was this said at the meeting? -- Yes.

Oh, yes, he did not put it that way. -- They tried to recruit the social worker and the principal of the lower primary school, but with negative results. Wilberforce Sinxo then stood up. (20)

MR MULLER: No. 2 on the annexure. -- He told us that he had gone to Middledrift and recruited there. Then accused No. 3 stood up and told us that we must be snappy and that we must go to our dormitories whilst the others are still busy in the hall. He then said somebody must say a prayer. Fumanikele Mgawana stood up and said the prayer. (3)

He is not on the list. Was that the end of the meeting? -- He also told us that .. (intervenes)

Who did? -- Accused No. 3. That we must not leave for the dormitories in a group, but singly, one by one so that this/... (30)

this would not attract suspicion to the boys. This was the end of my first meeting.

Can I just clarify one or two matters on this meeting. You said when you arrived at the meeting together with accused No. 4 and Stanley Gqajela, there was a song being sung, Mayibuye. What kind of song is that? -- About the liberation of the Black man.

You later on said that accused No. 3 told the meeting that SASM - that the movement consisted of two phases. The first you explained and the second was to leave the (10) country to undergo military training. Was it said what had to be done after undergoing this military training, what one should do after receiving this training? -- To become freedom fighters.

And do what? -- To fight the Whites.

What Whites? The Whites in what country? -- In South Africa.

Was it explained or not how a person should go about if he had made up his mind to undergo this training, what steps he would - he had to take or how he would reach the (20) other country? Was anything said in this regard? -- We were either to go to Mozambique or Botswana.

Was it explained how one would get to Botswana and Mozambique? -- No.

BY THE COURT: Who said this and who explained this? Who said that you had to leave the country and undergo military training and then become freedom fighters? -- Accused No. 3. 3

MR MULLER: How many meetings did you attend of SASM? -- Four.

When did you attend the second meeting? -- On the 4th (30) October.

Can you tell us about that meeting? How it happened, what/...

what you remember of this meeting. -- Accused No. 4 told me that a meeting was to be held. So I agreed to attend the meeting. He said the second meeting would be held in the cellar again, so I went to the cellar at about 7 p.m.

Is that the same cellar where this previous meeting took place? -- Yes.

Yes? -- When I entered the cellar, he told us, that is in the cellar.

Who was that? -- Accused No. 4. A school warden had been seen patrolling the area, we cannot regard this cellar as a safe spot for the meeting. (10)

MR KIES: Could he be asked once again to speak up.

MR MULLER: Can I just point out to you that you are speaking -- you are free to speak Khoza. -- Accused No. 4 told us that the meeting would then be held in the kloof. He said we should go thither via the dormitory and inform the other members. That is to tell them that the meeting would not be held there, but at the kloof. I left via the dormitory and I told Majova the meeting is not at the cellar, let us go to the kloof. So we proceeded to the kloof. (20)

What is Majova's other name? -- Nsane.

Do you know whether he is also known as Mzwandile Majova? -- No.

Mzwandile Watson. You do not know. -- I do not.

I was referring to No. 21. Yes, you told him about the venue and you proceeded to the kloof. -- We arrived. There were a few people there. We remained there and sang Mayibuye E Afrika. The other persons did not arrive. So accused No. 4 rose .. (intervenes)

BY THE COURT: Did arrive or did not arrive? -- He was present. (30)

No, the other persons. -- Did not arrive.

Did not arrive. -- Yes.

So No. 4? -- He said accused No. 3 who is the president, is not present as well as Stanley Gqajela. He said then he will take the chair. Not much will be discussed because of the lack of attendance. He told us about the Black man's struggle, that this had begun a long time ago and that we were not the first to struggle; that we must continue struggling. He said the people that have been struggling were prepared to make sacrifices. He said if anybody had a play that (10) he was acting, he would do the necessary introduction; that is those who wanted to act. He then sat down. But before being seated, he said whoever wants to say anything may do so. Slate Nkabinde then stood up. Slate said there was no time for play, as we were approaching the exams. This incident about the play then came to an end. Zwela Kentshepe and Bikunsi Masonte, they quarrelled about holy writings. Bikunsi asked whether the meeting went along with the scriptures. Zwelake said that he believed in the Bible. It was then decided that it depended on the individual whether he believed or not. (20)

MR MULLER: The persons mentioned are not on the annexure.-- Faku Ntoyi then asked.

That is No. 22. -- How can we leave the country. Accused No. 4 said we could go to the executive, they will advise you. ⁴ Accused No. 4 then told us there was not much to be discussed, so let us return to our dormitories. This was done.

THE COURT ADJOURNS FOR TEA. THE COURT RESUMES.

DON MLUNGISELELI JONGWIYSE QUPE: still under oath:

FURTHER EXAMINATION BY MR MULLER: This meeting you were telling us about before the adjournment, can you remember (30) who the persons are that were present on this meeting or can you/...

you remember some of them? -- Myself, Monwabisi Yako.

No. 6 on the list. -- Slate Nkabinde.

Do you know any other name of Slate? -- Richard.

That would be No. 15 then. -- Accused No. 5, accused No. 4, Zwelake Kentshepe. 5

Not on the list. -- Andile Ngaki, Bikunsi Masono.

Not on the annexure. Can't you remember any more? -- No.

You mentioned that accused No. 4 said that people who wanted to leave the country, had to see the executive.

Remember? -- Yes. (10)

Who was the executive? Who were the members of the executive and what positions did they hold on the executive?

-- He did not say.

No, but I am asking you. Do you know who the members of the executive were? -- Yes.

Who were they? -- Accused No. 3 - president, Stanley Gqajela - vice-president, accused No. 4 - secretary, Andile Ngaki - treasurer, Mentoor - disciplinary committee, Vuyo Baleni - organiser of the security committee, Sinxo - disciplinary. These are the ones I heard of. 3
4
(20)

Did they act in these positions at any meetings you attended? -- No.

You told us about the kloof where this meeting eventually was held and you have also told us about the cellar. Where are these places? -- At Healdtown.

And what is the next incident that you remember in connection with this organisation? -- I do not quite follow you.

Let me put it this way: until when did you attend school at Healdtown last year? 1975? -- October. (30)

Did you remain - where is your parents' home? -- Port Elizabeth/...

Elizabeth.

Did you remain in the vicinity of Healdtown and P.E. in between all the time until October? Did you ever go away from Healdtown? -- There was a time when I had left.

Where did you leave to? -- Kimberley.

Can you tell us how it happened that you undertook this trip? How did it start? How did you decide to take this trip? Everything that you remember. -- Stanley Gqajela came to see me on the 7th October. He told me .. (intervenes)

BY THE COURT: Is this admissible? (10)

MR MULLER: Again only as a basis on which I submitted that previous conversations with this Gqajela were admissible.

BY THE COURT: I do not think it is desirable to put in evidence on this basis if it is simply to show motive, unless it is absolutely necessary to have the motive on record.

MR MULLER: It will be a bit difficult. It might also be arguable at a later stage that what this person said to him, there was .. (inaudible) him being the vice-president of this organisation, but I will try to present the evidence on another basis. (20)

BY THE COURT: Be careful not to have evidence that is inadmissible in a case of this sort particularly.

MR MULLER: After Gqajela spoke to you and is it because of this conversation you had - what did you do after this conversation with Gqajela? What did you decide? -- I was just asked .. (intervenes)

BY THE COURT: Yes, we do not want to know at this stage what you said to Gqajela or what Gqajela said to you. You told me that Gqajela came to you and obviously you had a conversation. -- This is correct. (30)

What happened after that conversation? -- I consented.

You/...

You consented and as a result of that consent what did you do?

MR MULLER: Did you have a conversation with anyone else after this conversation? -- Yes.

With whom? -- Koko, accused No. 5. S

Who were the parties in this conversation? -- Myself, Koko, Nsane Majova, Stanley Gqajela. That is all.

What was said during this conversation? -- Gqajela spoke. He said: tomorrow morning we are leaving.

Where was accused No. 5? -- He was present. (10)

Yes, what did he say then? -- He said: you must pack your things for tomorrow's journey.

Did he say what journey? -- To leave the country.

What for? For what purpose? -- For military training.

What was accused No. 5's reaction? What was his attitude? -- He was excited.

Yes and then? -- We packed our things and then he said I should come and sleep by his place at Tshoga.

Who is that? -- Gqajela.

Did you then sleep at his place? -- Yes. (20)

Where was accused No. 5? Did he go with you or did he remain at Healdtown or what did he do? -- He remained at Healdtown. S

So you yourself slept at Gqajela's place. -- Yes.

After that? -- We arose early the next morning. Gqajela had told us on the previous day that accused No. 3 and 4 would take us part way, that is to King William's Town to find a 3
4 man to transport us as far as the border.

So what did you do that morning? -- We rose early that morning, proceeded to the school. I woke accused No. 5 (30) and Majova, whilst Gqajela awoke accused Nos. 3 and 4. So we walked/...

walked to Alice.

Who were the other persons that walked to Alice? -- 3, 4, 5, Majova, Gqajela and I.

And at Alice? -- We hiked to King William's Town.

Hitch-hiked? -- Yes.

Yes? -- We alighted in town and proceeded to the location on foot. As we were approaching the location, accused No. 3 told accused No. 4 to go and call the two executive members at Temba Labantu High School. I do not know the reason for this. Accused No. 4 then proceeded to Temba Labantu whilst I, accused No. 3 and 5 went and waited at Preto's Bottle Store. Later accused No. 4 returned and told us the two executive members would come later. Later they did arrive. I do not know their names. Accused No. 3 and 4 told us that they were going to see the man who would provide the transport. So off they went. They came back again and told us that they had seen the man at the post office, but that he had told them he would see them during lunch-time. They later returned to this man at about 1 p.m., accompanied by Gqajela on this occasion. They returned and said that they had seen the man, but there was no hope of transport. He told them that he is not safe, that he is being guarded by the police. Gqajela then told us - at least Gqajela is the one who made this report on their return. He continued by saying there were two boys who had been assisted by that man and that they had written him a letter and when it reached him, the letter had arrived unsealed. Gqajela continued, saying that a lady spy .. (intervenes)

Where were accused No. 3, 4 and 5 at this stage? Where were accused No. 3, 4 and 5 when Gqajela told you all this? -- They were present.

BY THE COURT: I missed the last sentence. Gqajela also said? -- Something about a lady spy, a lady informer, at Durban. He said: we cannot help you, go back to school. So Gqajela said we cannot go back to school, we are leaving via the other way. So we are going to Kimberley to meet another friend of ours and he will tell him to help us financially. We agreed. He said we must go to the station and ask about the train leaving for Kimberley. We proceeded to the station. On our arrival there, we heard the train would be leaving at 5 p.m. So we decided to hike. On our way to the hiking spot (10) he told us.

Who? -- Gqajela, that firstly we are going to Queenstown to meet another friend of his and ask him to help us financially as far as Kimberley. We hitch-hiked as far as Stutterheim.

MR MULLER: What had happened to accused No. 3 and 4? -- They 3
returned to the location. 4

And who proceeded, who got this lift to Stutterheim? -- I, accused No. 5, Gqajela and Majova. 5

And at Stutterheim? -- We learned there a train would be leaving at about 1 a.m. so we slept in the waiting-room. (20) We boarded the train for Queenstown where we disembarked and went to one Vusimzi Tambo in the location.

When did you arrive in Queenstown? -- Early in the morning at about 6.

Yes? -- We walked to Vusimzi Tambo's place where his mother awakened him. Stanley Gqajela then told him about our plans and requested him to assist us financially. 5

Where was accused No. 5 when Stanley Gqajela told Vusimzi Tambo about your plans? -- He was present.

Yes? -- Vusimzi Tambo told us that he would be (30) seeing a man, that is a taxi man, and ask him what his charge would/...

would be to Bloemfontein. He was told it would be over R100 and he then told us that he could not assist us with this amount. Vusimzi then continued by saying he would buy us tickets as far as Kimberley. We then left for the railway station and he gave me R30 with which I bought four tickets at R6,11 each and I handed the change back to him, but he in turn gave it to Gqajela. We returned to his place, took our luggage and returned to the station where we waited for the train. We boarded the train at about 7 o'clock and disembarked at Bloemfontein. (10)

When did you arrive at Bloemfontein? -- At about 7 a.m.

Yes? -- We had asked the ticket examiner when will the train be leaving for Kimberley. He said at about 10 p.m. Stanley Gqajela said we cannot wait, let us hike. We agreed. So we went off on a hike but with negative results. And we then returned to the station. And I gave this matter thought.

What matter now? -- This about leaving the country. So I told Koko Mda that I was at that stage no longer prepared to leave. He agreed that he too was not prepared. I and accused No. 5 decided to return. (20)

BY THE COURT: No. 5 is Koko Mda? -- Yes. He said: where are we going to get the money to go back with. I said we will accompany these two as far as Kimberley where we can get money from Tamy Nyati. So he agreed.

MR MULLER:

That is No. 8. What made you really decide to abandon this project of yours? -- I thought about my parents.

Do you know what accused No. 5's reasons were for turning back? -- Yes.

What were they? -- He thought about his parents.

So you made this decision, you decided to carry on (30) to Kimberley and then? -- We boarded the train for Kimberley....

(intervenes)/...

MR KIES: M'Lord, couldn't he speak in English and there is no translation at all? Is it necessary to have both of them?

BY THE COURT: I am afraid we will not hear anything. We can try, if you consider it more desirable. Just try, Mr Interpreter, and see if we can hear him. It is a recognised and legitimate procedure for a sworn interpreter to repeat what the witness is saying. -- I will continue in Xhoza.

Very well. But please speak Xhoza as loudly as you can because there are people who want to hear what you say anyway. -- We arrived at Kimberley at about 3 a.m. We waited (10) for dawn in the waiting-room. Stanley Gqajela said he was going to go and see and find Tamy Nyati at his residence. He left. I and Majova proceeded to town.

MR MULLER: What happened to accused No. 5? -- We left accused No. 5 at the station. We returned from town. On our arrival (5) we found that Tamy and Gqajela were together with accused No. 5. I then asked Tamy Nyati whether Stanley Gqajela had told him that I and accused No. 5 were reluctant to cross the border. (5)

Did Gqajela know anything about your reluctance when you came to Kimberley? -- Yes. (20)

When did he learn of your attitude? -- We had told him this at the station at Bloemfontein.

What was their attitude? -- He asked for the reason and we told him that we were not prepared by then.

All right, go on to Kimberley now. -- Tamy said yes that he had heard that I and accused No. 5 were reluctant to go. I asked him to please assist us financially and he said he would. We all left together by bus for his folks' home or place of residence. On our arrival there we partook of a meal. Later I told him.. (intervenes) (30)

Who is that? -- Tamy Nyati. To give me money. He told me that/...

that he only had R7 and then suggested that I and accused No. 5 should buy one ticket to King William's Town and one of us should hide himself under the bench. We agreed to that.

Where was accused No. 5 when Tamy made this suggestion? S

-- He was present.

Yes, what did you do? -- I was then handed the R7. I handed it to accused No. 5 with which to buy a ticket at the station. He bought one ticket to King William's Town. So we boarded the train and the ticket examiner came to see our ticket. By that time I was under the bench. I heard that (10) the ticket examiner had passed so I got out from under the bench. Unfortunately he arrived again and he asked us for our tickets and I had no ticket. So he wanted to take me into custody. So I had R2 in my pocket and I bought a ticket from Kimberley to Bloemfontein. The people in the compartment told me that they would assist me with a ticket from Bloemfontein to King William's Town. When the ticket examiner came again at Burgersdorp they bought me a ticket, that is from Burgersdorp to King William's Town. We disembarked at Bailey and there boarded a train for King William's Town. On (20) the train we met accused No. 3. He was shocked to see us and asked us for the reason. Where are the two boys that you were going along with? We told him we had left them at Kimberley and we do not know whether they have left the country or not. He told us: do not tell anybody about this. He said that he was on his way from East London and that he had met a man by the name of Mfundisi and that this man can help us to leave the country for military training. He further told us that this is not only military training, education is also there. This sounded good to me and he told us that that man (30) wanted a list of those that wanted to go. We disembarked

at/...

at King William's Town and hiked to Alice. And there we entrained for Healdtown and went to school, where I told Monwabisi Yako about this. I also met accused No. 4 and told him too. He requested me not to tell anybody about this. That is all. 4

You have told us about two meetings of SASM that you attended already, but you also mentioned that you attended four meetings in all. Is that correct? -- Yes.

When did you attend the third meeting? Before or after this trip? -- After. (10)

Can you remember when it was held? -- It was held in the kloof.

When was it held? -- I think it was the 14th October.

Can you remember what day of the week it was? -- Tuesday.

What do you remember of this meeting? -- This was a special meeting. It was said that we should write a letter to Mr Sebe.

Who said that? -- Accused No. 3. And tell him about the grievances of the boys because there were many boys that were expelled from school without tangible reason. (20)

How did you know of this meeting, that it was being held? -- I was informed.

By whom? -- By accused No. 4 and I accompanied him to look for a venue. So we decided on the kloof. 4

And you say at this meeting accused No. 3 suggested the writing of this letter? -- Yes.

Who else spoke on that meeting? Or may I rephrase my question. Did accused No. 3 say anything else? -- Yes. 3

What did he say? -- He said that we must beat the informers. So we agreed. (30)

Did he say anything else? -- He said anybody who wanted to/...

to write a letter, anybody who can type. So Ngawana declared himself that he would type the letter. I also declared myself to give my gloves to him so as not to leave any fingerprints on the letter.

Anything else you remember of this meeting? -- Accused No. 5 told us that Sipho Matshembozi is not trusted and told him whether he could convince us so as to be able to trust him. So he convinced us and we then trusted him. As this was a special meeting accused No. 3 just told us we must go for military training. (10)

Did he say where? -- No. The meeting then ended.

Can you remember some of the persons who were present on this meeting? -- Accused Nos. 3, 4 and 5, myself, Sokewana, Sipho Matshembozi, Tito Moss, Wilberforce Sinxo, Kandile Kheme, Andile Ngaki, Vuyo Baleni, Kholekile Tata.

Are those the persons you can remember? -- Yes.

Now, what happened at the school after this meeting? -- Slate Nkabinde was assaulted by another boy called Dayday.

Was anybody expelled arising out of this incident? -- No. The students then confronted the principal and asked him why did the police want to take Slate Nkabinde back into custody and leave the assaulter behind. The principal told us if we want to lay a charge, we must do so with the police. He cannot say anything; the police wanted to take him into custody. They regarded him unsafe here. So we requested the principal to find accommodation for Slate Nkabinde in the location. (20)

What I want to know is there was - you have given us an indication now of this trouble at school. Did you attend school - or how long after this incident did you still remain at school? -- The following day. (30)

And/...

And after that? -- After the police had come we were expelled from school.

Where did you go to? Did you leave school? -- Yes.

Going where? -- There was a boy who was not a member, Fanekiso. He told me to accommodate him at P.E.

And what did you do? -- As well as his friend.

Did you take them? -- Yes, I took them.

So you went to Port Elizabeth? -- Yes.

Did you go back to Healdtown after that? -- Yes. But before that I went to Ndobeni Location. (10)

Where is that? -- At Fort Beaufort.

Where did you stay there? -- Firstly Slate Nkabinde was there was well. So we told him that we had found a lawyer for him at Grahamstown.

What I want to know from you is did you ever go back to the school of Healdtown? -- Yes.

When was that? -- In October.

After you had been to Port Elizabeth and so on? -- Yes.

Did you see any of the accused there at school? -- Not by then. (20)

Did you ever see any of the accused there? -- Yes. 3

Whom did you see? -- Accused No. 3 and 5. 5

And where was that? Where at Healdtown? -- In the field near the girls' hostel.

Did you speak to them? -- I spoke to accused No. 5. 5

Now tell us about this discussion. -- Firstly I told him that Tamy Nyati had told me that he was being interrogated by the Special Branch at Kimberley, asking him about those four boys who had visited him and he said that he had said to the Special Branch the two were on their way home and that two had only just visited him as it was a long week-end. (30)

What/...

What did accused No. 5 say? -- I told him that Tamy Nyati said we must stick to this or to that. He agreed. He also told me that they are on their way to East London to find out from Mfundisi what arrangements had been made for us. He asked me to accommodate him for that night. I agreed.

How long did he stay with you? -- That day.

Did he say what arrangements were to be made with this person? -- For us to leave the country.

To do what? -- For military training.

You say he stayed then with you for the day. -- Yes. (10)

After that? -- He came back again and told me that they were at East London.

BY THE COURT: That they had been at East London? -- That they had been to East London and that Mfundisi had told them that he was prepared to make arrangements for us. We then returned to Healdtown High School to find accused No. 3 for we were going with him to Port Elizabeth. We did not find him and then returned to Tshoga. I told my grandmother that I am going home to Port Elizabeth. So she gave me R30 which was supposed to represent boarding fee at Healdtown. We went to the station, accompanied by accused No. 5 where I bought two tickets to Port Elizabeth and we went to our home. (20)

MR MULLER: Do you know of any further dealings with this person in East London that were made? -- No.

Did you ever hear of such dealings or arrangements? -- No.

At Port Elizabeth did you see any of the accused there when you returned to Port Elizabeth? -- Yes.

When did you see them? -- Accused No. 3, 4 and 5.

Tell us about the circumstances in which you saw them, where you saw them, what was going on? -- I saw them at a meeting at Port Elizabeth. (30)

Did/...

Did you speak to any of them on this meeting? -- No.

What kind of meeting was this? -- It was said that we must keep the existence of the meeting secret.

Who said that? -- Accused No. 3. 3

But what kind of meeting was it? Was it - or wasn't it connected with any movement or organisation? -- It was a SASM meeting.

What was said at this meeting? -- We must keep the existence of the meeting secret.

Yes, according to you that was accused No. 3 who (10) said that. -- Yes.

Who else was present at this meeting? -- Accused Nos. 3, 4 and 5, myself, Radio Dippa, Paike Faas, Afrika Sulelo. 3 4 5
These are the ones I remember.

Apart from what accused No. 3 said at this meeting, was anything else said? -- Yes.

By whom? -- Vuyo Baleni.

What did he say? -- He said that he and accused No. 3 3 were going to East London also to find out what arrangements Mfundisi had made. He said so we must be prepared to go; they are going to find out what arrangements had been made. (21)
Then Vuyo Baleni continued, saying that Slate Nkabinde is coming to visit him and accused No. 3 told us that the members of Kwazakele High School wanted to see some of the members here. So there was an argument who was going to see them and who was not. Eventually it was decided that Vuyo Baleni and Slate Nkabinde on his arrival and accused Nos. 3 3 and 4 should go and see them. 4

Now, I am referring to the - was there anything else said at this meeting that you remember? -- No. (30)

I am referring to the meetings that were held at

Healdtown. You testified to the fact that the one was held in the cellar, the other was also held in the cellar, but then because of the warden's activities, it was decided on another venue. Why was there - why were the people unwilling to hold that meeting without the warden knowing about it, or why were they trying to avoid the warden? -- We did not want to be seen by persons who were not members.

Why not? In other words, why was this desire for secrecy? -- SASM has its own constitution so we were running irrelevant to the constitution. (10)

In what respect? -- To leave the country for military training; it is not legal.

Is that part of the constitution? -- I said we were running irrelevant to the constitution.

Now, you undertook this trip with accused No. 5, this trip which eventually ended in Kimberley and the two of you came back together. You also said that you mentioned this difficulty of yours about skipping the border, you mentioned this to accused No. 5. What was the relationship between yourself and accused No. 5? -- Friends. (20)

How good friends were you? -- Very good friends.

Your relationship with accused No. 3, 4 and 5 - 3 and 4? -- Friends.

As good as the relationship with accused No. 5? -- No.

MR SKWEIYA APPLIES FOR A POSTPONEMENT UNTIL TOMORROW.

THE COURT ADJOURNS PROVISIONALLY UNTIL 9,30 TOMORROW MORNING.

THE COURT RESUMES ON THE 10th JUNE, 1976.

MR ENGELBRECHT INFORMS THE COURT THAT THE WITNESS BALENI IS NOW BEING TREATED IN TOWER HOSPITAL IN FORT BEAUFORT. (30)

MR KIES: No comments.

MR SKWEYIYA ADDRESSES THE COURT AND INFORMS THE COURT THAT THEIR CONSULTATION IS NOT YET COMPLETED, AND HE MAY ASK FOR A FURTHER POSTPONEMENT.

DON MLUNGISELELI JONGWIYSE QUPE: still under oath:

CROSS-EXAMINATION BY MR SKWEYIYA: How old are you? -- 21.

When were you born? -- 1st January.

Yes, which year? -- 1955.

And before you attended the Healdtown Institution, at which school were you? -- Fort Beaufort High Primary.

And then you went straight to Healdtown? -- Yes. (10)

Was there trouble at school last year, that is at Healdtown? -- Yes.

Yes, what sort of trouble? -- Slate Nkabinde was arrested.

Was that the only trouble? Any other trouble involving students and the institution and the authorities? -- Yes.

Yes, what other trouble? -- The reason for his arrest.

When was Nkabinde arrested? -- October.

Can you remember the date? -- No.

The fact of the arrest of Nkabinde, you regarded as being important. Is that correct? You and other students. (20)

Is that correct? -- Yes.

And you say you cannot remember the date. -- Yes.

Any other trouble besides the fact of Nkabinde being arrested? -- Yes.

Tell us what the other trouble was. -- We went to the hall, that is the students.

Yes? -- And at the hall we arranged to meet the principal in connection with Slate's arrest.

Let us leave Slate's arrest for a moment. Was there also trouble because students were generally dissatisfied (30) with other students being expelled without reasons being

stated? -- Did you as students do anything about this particular complaint? In other words, the fact that people were being arrested - I am sorry, I mean being expelled without reasons being given? -- Yes.

Yes, what did you do? -- We saw the principal.

Before you saw the principal, wasn't there a meeting at - on the way to Alice, on the road on the way to Alice, somewhere near there above the girls' hostel? Wasn't there a meeting there where this particular complaint was discussed? -- Yes. (10)

Who were present at this meeting? -- The SASM members.

Which SASM members were present? -- I, accused No. 3, No. 4 and 5. 3
4
5

Anybody else? -- Tito Moss.

Yes, who else? -- Vuyo Baleni, Sokewana, Vuyo Baleni, Wilberforce Sinxo, Andile Ngaki, Radio Dippa.

Anybody else you can remember? Is that all you can remember? -- Yes.

And this meeting was called for the specific purpose of discussing the complaint about expulsion of students. Is that correct? -- Yes. (20)

And what was decided at this meeting? -- To write a letter.

To who? -- To Mr Sebe.

Before we come there, was it decided that the principal must be approached, Mr Van der Merwe? -- No.

It was never decided? -- No.

Not at that meeting? -- No.

Was it decided before that meeting? -- After the meeting.

At this meeting what was decided? -- To write a letter to Mr Sebe. (30)

Is that all? -- And to tell him about our grievances.

Yes/...

Yes, who typed this letter? -- Fumanikele Mgawana was to have typed it.

Was Mgawana at this meeting? -- Yes.

Now, are you able to remember the contents of this letter to Mr Sebe? The fact of the content, not word for word. Or may I help you? Did you in this letter request and invite Mr Sebe to come to Healdtown as soon as possible? -- Yes.

With the view that you should tell him about your complaints at Healdtown? -- Yes.

And you also said that you would be pleased if he (10) could come on the following Friday after that meeting? -- Yes.

To listen to your complaints. -- Yes.

Now tell us about the meeting where you say it had been decided before this one that the principal should be approached.

BY THE COURT: He said after. It was decided after this meeting.

MR SKWEYIYA: Is that all that happened firstly at this particular meeting? -- No.

Is that all that happened at this meeting? -- No.

What else happened? -- We arranged to beat up the (20) informers.

Is that all? -- I am just giving it thought. I said that I would give Mgawana my gloves.

And what was the real reason for giving Mgawana the gloves? Do you know the reason? What was the real reason for giving those gloves? -- We were told that we had to guard against fingerprints being left on the letter.

Why? -- We did not want the writer known or to become known at least.

Why not? What was wrong with this letter? Nothing (30) wrong with it. Why not? -- It was not written on behalf of

the students as a whole.

Now isn't the real reason that it is because that letter was typed on a machine which belonged to the school and that you had no permission to use that machine? -- We did not want it known that SASM had written the letter.

But what was wrong with the contents of the letter? You were expressing a complaint which was a general complaint of all the students. Isn't that so? -- Yes.

So what was wrong with anybody knowing that this letter was written by SASM? -- We were not an organisation that (10) was legal.

Do you know Ngaki, Andile Ngaki do you know him? -- Yes.

He gave evidence in this court here and he said that SASM was a legal organisation. What is your reaction to that? BY THE COURT: He also said that SASM was a cover for illegal activities.

MR SKWEYIYA: Yes, M'Lord.

BY THE COURT: I think you must put all the evidence to the witness if you want him to comment, instead of putting half of it. (20)

MR SKWEYIYA: And he also said, as His Lordship has said, that SASM was a cover for some illegal activities. What is your comment firstly on this other reason as given by Ngaki, in other words, his saying that SASM was a legal organisation? -- SASM is a legal organisation, but we were not conforming to the constitution.

But Mr Sebe did not know that you were not doing things according to the constitution. Is that correct? -- Yes.

So what was wrong in him knowing that it was from SASM, that this letter was from SASM? -- It may have come to (30) pass that SASM would have been found out that it was not legal.

Was/...

Was there also a meeting after this one, regarding this same complaint? -- Yes.

And where was this meeting held? -- At the hall.

And what was decided at this meeting? -- That we see the principal.

And what type of meeting was it? -- A students' meeting.

And what was decided at that meeting? -- To see the principal and tell him about our grievances.

Namely the fact that you were disgruntled about the fact that students had been expelled without reason. Is that (10) correct? -- Yes.

And was anybody elected to go and see the principal? --Yes.

And was that somebody Lefty Dumeni? -- Yes.

What was his position? -- A vice head boy.

And what was he requested to say to the principal? -- We told him that we wanted to see him.

And what was decided at this meeting? That you would do as students in the event of the principal not agreeing to come and see you? -- We merely arranged to see the principal.

Didn't you decide the fact that if the principal (20) did not want to hear you or see you, you would write a letter and complain to Mr Sebe? -- Not at that meeting.

At which meeting was this decided? -- We did not decide to write a letter if the principal refused to see us.

What made you to decide to write a letter then to Mr Sebe at a subsequent meeting, that is of SASM? -- We wanted to see him.

Did the principal come to see you after he had met the students? -- Yes.

And what did he say to you? -- He said that he could (30) not talk to us all, .. (intervenes)

You/...

You should send a delegation of fewer persons, three persons. -- This is correct.

Because he would not come and speak to a mob, as he put it. Is that correct? -- Yes.

And he went away. -- Yes.

And it was decided by the students that Lefty should go and see him again. Is that correct? -- Yes.

And that this time Lefty should either ask for permission to use the telephone or ask the principal to send a letter to the Department of Education of the Ciskeian Government. (10) Is that correct? -- No.

What is incorrect in what I put to you?

BY THE COURT: What was the second part? He should ask permission to use the telephone or?

MR SKWEYIYA: Ask permission that the principal should send a letter to the Department of Education of the Ciskeian Government. He said 'no'. What is incorrect in this? -- The principal told us he could not talk to us as a mob.

Yes, you have said that. -- We then told him we could not send delegates, we wanted to speak to him as a mob and (20) that the delegates would not impart everything and he refused. We then told him that we wanted to see Mr Sebe and he said he shall phone him.

Yes? -- We then left. And told us to return to our classes and that he will again call us together.

And was Lefty at some stage sent to the principal to go and ask him what Mr Sebe had said? -- No.

What happened then? -- After the break he told us he wanted to see us. So we repaired to the spot where we had assembled. He told us then that he had phoned Mr Sebe, (30) but was unable to contact him and that he had phoned the

Secretary/...

Secretary for Education and that the secretary had said that he was not prepared to meet us. The principal then told us to return to our classes and if we do not return within 15 minutes, we can pack up and go home.

Well, our instructions are these that you first met as students and you decided that Lefty must be sent to the principal; he and another and that Lefty did go to the principal. Do you agree with that portion that I have just put to you now, that far? -- It had earlier been arranged at the hall that he should see the principal with a view to us seeing him, the principal. (10)

Do you know what happened when - did Lefty and this other person see the principal? -- I do not know the other person.

Did Lefty see the principal? -- Yes.

And did he come back to report to the meeting what happened, what transpired? -- He did.

What did he say transpired? -- He said the principal was coming.

Anyway, as I was putting the version according to our instructions, after the principal had decided that he was not going to see .. (intervenes) (20)

BY THE COURT: If this is relevant to credibility, I think you had better be more specific than simply say according to our instructions such and such. If you are challenging this witness's version of what happened then I think that the State must know who is going to give a contrary version.

MR SKWEYIYA: Well, I am referring in particular to 3, 4 and 5. They say that after the principal had left and said that he was not prepared to see a mob, he said to the students that he was only prepared to see a delegation of three persons. What do you say to that? And he went away. Is that/... (30)

that correct? -- He did not specify the number of delegates.

3, 4 and 5 further say that after/^{this}the students then 3-5 decided that they should send Lefty back to the principal to ask that the principal must either phone or send a letter as I had said earlier on, to Mr Sebe and his government. What do you say to that? Do you deny that? Do you deny what I have just put to you? -- It is not so.

Well, I am further instructed by 3, 4 and 5 that when Lefty went to see the principal with this latter request, 3-5 the principal said he had already telephoned Mr Sebe (10) and his government and that he was awaiting a word from him. What do you say to that? But that he, the principal, would not stand in their way if they wanted to either phone Mr Sebe or write him a letter. What do you say to that? -- I do not quite follow.

BY THE COURT: What is being put to you is that your version is incorrect; that what really happened is that Lefty went back to see the principal and the principal told Lefty that he had already telephoned Mr Sebe and his government and was awaiting a reply from them. Is that so? -- I do not remember that. (20)

Also that the principal had said to Lefty that he would not stand in the way of the students if they wanted to telephone Mr Sebe or write to him. Is that so? -- No.

MR SKWEYIYA: Is that not so or can't you remember? -- I do not recall.

And I am also instructed by accused No. 3, 4 and 5 that the principal then sent word to the students that he wanted to address them. Is that correct? -- Yes.

And before the principal (M'Lord, I am putting the (30) case of 3, 4 and 5 all the time) and before the principal sent this/...

this word, the principal had said that they could form a delegation of ten instead and the boys rejected this. Is that correct? -- Yes.

Then the principal sent word that he wanted to address all of you. Is that correct? -- Yes.

Then you all assembled in the open. -- Yes.

The principal came with one or two members of the staff. Is that correct? -- Yes.

He then said he had got word from Mr Sebe himself and had been told that Mr Sebe refused to have any interviews (10) with students. Is that correct? -- Not Mr Sebe.

But his department, Department of Education. -- His secretary, yes.

And he further (that is the principal now) said to you all of you students that he had been given authority to tell you boys to go back to the classroom or pack your bags and go. Is that correct? -- Correct.

And he gave you 15 minutes to do this. -- Yes.

I am suggesting to you that the meeting of SASM and where it was decided that a letter should be written to (20) Mr Sebe, was after all this had happened between the students and the principal. Can you deny that? -- Yes.

What happened then? Did you go after 15 minutes or what happened? The students. -- We saw the class coming out, that is the girls came out and they returned to their dormitories and then we went and returned to our dormitories.

And the next thing is that there were police vans around the institution. -- Yes.

And that was decided to pack, all you boys to pack your bags and go. Is that correct? -- I was told by the police (30) to pack.

And/...

And all of you packed and left. -- Yes.

Then how did SASM then hold a meeting, discuss writing of a letter at school when all of you had been expelled? That is you boys.

MR ENGELBRECHT: I do not quite follow this. Is my Learned Friend referring to the meeting where the letter of Sebe was discussed?

BY THE COURT: No, he is referring to the letter which was written on the typewriter or going to be written on the typewriter with the gloves on. (10)

MR ENGELBRECHT: My recollection of the evidence is that the witness said that meeting was before this.

BY THE COURT: Yes, that is so.

MR ENGELBRECHT: And his question is now how could they after they had left hold that meeting.

BY THE COURT: Yes, that is correct. My note reads: it was decided to write a letter to Mr Sebe. And you suggested to him it was decided at the SASM meeting and he said it was not decided at that meeting, to approach principal Van der Merwe, that was decided after that meeting. In other words, (20) the approach to principal Van der Merwe was after the decision to write a letter to Mr Sebe.

MR SKWEYIYA: Am I correct then in saying that at this SASM meeting when you decided that a letter should be written to Mr Sebe, it was decided by the members then and there that the writing of that letter would be conditional depending on what the principal's reaction would be if a delegation had been sent to the principal of the students? -- No. The SASM meeting where it was decided to write a letter, was before our dismissal, expulsion. (30)

Anyway, you say that this letter was typed by Mgawana? --

I did not see him type it, but it was suggested that he type it.

Do you know whether it was posted or not? -- I do not.

Did the police ever show you a copy of that letter? -- No.

Do you know Andile Ngaki? -- Yes.

And do you know of members of SASM who went to Timbasa?

You yourself? -- Yes.

And do you know how this came about that members of SASM went to Timbasa? -- No.

Ngaki has given evidence in this court .. (intervenes)

BY THE COURT: Do you dispute this? (10)

MR SKWEYIYA: No, M'Lord.

BY THE COURT: Is there any point in putting it to the witness?

MR SKWEYIYA: No, I follow it up in something else. This was what was said, was put to Ngaki. It was put to him - it was said to him that someone had been sent to Timbasa and that that someone came back to give a report on what he had learnt about the conditions at Timbasa and Ngaki agreed to that. Now would you quarrel with Ngaki agreeing to that suggestion?

BY THE COURT: But how could you say that? I am sorry, I do not understand your question. Ngaki has agreed that this (20) delegation was sent. Now you want to know from this witness whether Ngaki agreed that the delegation was sent.

MR SKWEYIYA: I withdraw that question. I see the point.

BY THE COURT: You know, if we go on at this rate, this trial is going to take years and not weeks.

MR SKWEYIYA: M'Lord, I am driving to a point, I want ...

(intervenes)

BY THE COURT: Yes, I do not want to interrupt your line of cross-examination, but with the greatest respect, I cannot see the point of the last 10 to 15 minutes of cross- (30) examination. Anyway, please continue.

MR/...

MR SKWEYIYA: M'Lord, I will at a later stage explain to His Lordship why I adopted that line of cross-examination. But at this stage it would defeat the whole purpose of my cross-examining this witness if I were to reveal it.

BY THE COURT: Yes, very well, continue.

MR SKWEYIYA: Do you agree that the people who went to Timbasa are Tata, Ngaki himself and Stanley Gayisa or don't you know? -- Stanley Gayisa and Tata I had heard about but not Ngaki.

And Ngaki further says that it was declared publicly (10) at one of the SASM meetings that SASM was an organisation for Blacks in secondary schools and high schools in South Africa to make them conscious of the situation in South Africa. I suppose you would not disagree with that idea, as you knew the constitution of SASM. -- Yes.

And do you know of election of sub-committees by SASM to collect information on theology? -- No.

Have you ever heard of that? -- No.

Do you know of a sub-committee which was to get information on sport? -- No. (20)

What about a sub-committee to get information on Bantu education? Do you know of that one? -- No.

Do you know of any group of persons or a sub-committee who were asked to look into the question of fund raising for SASM? -- No.

Let us now go back to your evidence. You say that at one meeting which you attended, Tata gave a report concerning Timbasa. Is that correct? -- Yes.

My instructions from accused No. 4 are that Tata said this: that he went to a primary school and enquired from a principal of a school at Timbasa whether that particular school had/... (30)

had a program of feeding the children at certain times of the day? Do you disagree with that so far? -- No.

You do not disagree with that and Tata further explained that the idea behind this was that SASM wanted to see whether they could not try and organise a feeding scheme for that school if there was none at that school. I take it you do not disagree with that as well. -- No.

And Tata further explained about his going to the principal that the idea was that if there is a feeding scheme at school the parents should encourage children to go (10) to school. Do you disagree with that? -- No.

And the second part of Tata's report was to the effect that he had seen a social worker who did not cooperate. You do not disagree with that. -- No.

And the third part of his report was that he had tried to see students from Kuyasa School, but that students were either busy that week-end when he was there or were away and that he could only see one student. I take it that you do not disagree with that as well. -- I do not remember.

Fair enough. And he also, the fourth part of his (20) report, that is Tata's report, is that he then gave a report about the general condition at Timbasa, including the food, some of the types of food which he saw there and he said that he did not like the type of food, he did not think it was good to him. I take it that you do not disagree with that. -- I do not remember.

And Sinxo you say also gave a report at this meeting. -- Yes.

And I am instructed by No. 4 again that Sinxo could not (4) give a report about Middledrift because the students at (30) the school where he was supposed to go, were either not present

or that he, Sinxo, was too busy. You do not disagree with that. -- I disagree.

What report did Sinxo give? -- He told us he did recruiting at Middledrift. That is all.

Did he explain what members he recruited or can't you remember? -- He conscientised.

Did he explain that - did he use the word 'recruit'? -- Conscientise .. (intervenes)

Did Sinxo use the word 'recruit' at the meeting when he was giving his report? -- No. (10)

The word 'recruit' is your own creation in other words. -- Yes.

And I take it that the word 'recruit' also was your own creation when you said yesterday that No. 4 at this meeting reported that certain members had gone to Timbasa, Middledrift and Alice to recruit. I take it that also was your creation of the term. -- I did not say No. 4.

M'Lord, I am not sure about this, I thought he had said No. 4.

BY THE COURT: I am just looking at my notes. I think (20) one must be careful to put a witness's evidence to him exactly as he gave it in these circumstances.

MR SKWEYIYA: I am sorry, M'Lord, it is No. 3. And I take it also that when you said that No. 3 spoke about people having - who had gone to Timbasa to recruit, the word 'recruit' was your own expression. -- Yes. 3

And of course SASM is a body for students. Is that correct, and you were told that it was for students. Is that so? An organisation for students. -- Yes.

And would I be correct in saying that it (30) is obvious that when Tata went to Timbasa he obviously could/...

could not have gone there to try and persuade the principal to be a member of SASM? Do you agree with that?

BY THE COURT: The principal?

MR SKWEYIYA: The principal of a school.

BY THE COURT: Was this not an organisation for students?

MR SKWEYIYA: No, the principal of the school.

BY THE COURT: To become a member of SASM?

MR SKWEYIYA: Yes. -- No.

You agree with that.

BY THE COURT: No, he said 'no', not that he agreed. (10)

MR SKWEYIYA: I am putting to you that when Tata went to Timbasa he could not have gone there with the idea of asking the principal to become a member of SASM. Do you agree with that? -- Yes.

Nor had he gone there to recruit the social worker to become a member of SASM. Is that correct? -- Yes.

Now, resulting from the tenor of the report by Tata I am instructed by accused No. 3 and No. 4 that Stanley Gqajela then got excited when he heard about the conditions at Timbasa. Is that correct firstly that Stanley Gqajela got (20) excited? -- I do not remember.

Or perhaps let me use this word, that he was upset by this report about the conditions at Timbasa. Can you remember that? -- No.

And that as a result of this report he was so upset that he stood up and started saying something to this effect: the only way to alleviate these conditions is for you people to involve yourselves in the struggle of the people and help them in uplifting themselves. Do you deny that? -- I do not recall this. (30)

And that you must actively try and go out to such communities/...

communities and help the people there. What do you say to that? -- I do not remember this.

And Gqajela went further and said that it is conditions like these at Timbasa which may lead people to extremism - I am putting the exact of what Gqajela was saying - not the exact words - to extremism and that this could even result in people thinking of taking up arms. Do you disagree with that? -- I do not remember Stanley Gqajela talking like this.

Could he have talked like this? -- I do not know.

Of course Gqajela is a very close friend of yours, (10) is that correct? -- Yes.

In fact he is so close to you that most of the time you go out together to the location and other places. Is that correct? -- Yes.

And inevitably wherever Gqajela was at any place, you would be there. Is that correct? -- No.

In what language, if you can recall, did members speak in this meeting when there was this report back by Tata about Timbasa? -- Mixed.

What mixture? -- Khoza and English. (20)

Some members would stand up and speak in Khoza, some in English, some would stand up and speak in both, you know, mixing Khoza and English. Is that correct? -- Yes.

And you cannot say at a specific meeting so and so spoke in this language as you stand there now. For instance the meeting of SASM for instance, discussing^{about}/a letter to be written to Mr Sebe, you cannot say in what language the speakers spoke at that meeting. Is that correct? -- I can say.

You can say? -- Yes.

Yes, and can you - let us now go to the meeting (30) of the report back by Tata, can you say in what language a particular/...

particular individual spoke? -- Yes.

In what language did Gqajela speak? At this meeting where there was the report back by Tata about Timbasa, in what language did he speak? -- Xhoza.

And how did he express himself - I withdraw that, M'Lord. Can you remember whether Gqajela was there at this particular meeting or can't you? -- I remember.

Was he there? -- Yes.

And where precisely was this meeting held? Where in Healdtown was it held? -- In the cellar. (10)

Which cellar? -- The one near the tennis courts or near the post office.

And of course the door leading into that cellar abuts a road leading to houses of staff members. Is that correct? --Yes.

There is a staff member's house close to this cellar belonging to a Skosana. Is that correct? -- Yes.

And there are also other houses on the other side of the cellar. In other words, there is a cellar in the middle with Mrs Skosana's house on one end and other staff members' houses on the other end. Is that correct? -- Correct. (20)

And they are very nearby to the cellar. They are nearby to this building in which the cellar is. Is that correct? --Yes.

And of course the shortest way if one is from the institution, you know the institution precincts, in other words from the boys dining-hall and one is going to Mrs Skosana's house, one would have to go past the door of this cellar. Is that correct? -- I cannot follow.

If Mrs Skosana for instance was walking from the dining-hall and going to her house, the most convenient route for her would be to go past the door of the cellar. -- Yes. (30)

The same is the position with regards other staff members/...

members who have houses near Mrs Skosana like Depu(?) I think.
Is that correct? -- Yes.

THE COURT ADJOURNS FOR TEA. THE COURT RESUMES.

DON MLUNGISELELI JONGWIYSE QUPE: still under oath:

FURTHER CROSS-EXAMINATION BY MR SKWEYIYA: Before you came to Court, the day before yesterday, did you know why you were coming to Court? -- Yes.

What for? -- To come and give evidence.

And did you know who the accused were going to be in the case in which you were going to give evidence? -- Yes. (10)

Who were they supposed to be? -- The accused.

And before you came to court the day before yesterday, how long before then had you seen your mother or your parents? -- February.

And when is the next time you saw them? Was it the time you came into court the day before yesterday? -- I did not see my parents.

Which parent did you see in February? -- My mother.

Between February and today when last did you see your mother? Or had you seen your mother between February (20) and today? -- No.

Is she perhaps here in court today? -- No, I do not see her.

Did you see her/here ^{at any stage} in court either yesterday or the day before yesterday? -- No.

Did you see any of your relatives either yesterday or the day before yesterday? -- Yes.

When? -- Last week Thursday.

And which relative did you see? -- Uncle.

And what is your uncle's name? Is this the uncle (30) with the business somewhere in the Transkei? -- His name is

Wilcott.

Is it the one who has a business somewhere in the Transkei? -- No.

Which one is it? -- Wilcott Nbeju.

What does he do? -- I do not know now.

And before then what was he doing? -- He works in a reception office.

Of what firm? -- Livingstone Hospital.

Do you know under what law or for what reason you were held at that stage, that is last week on Thursday when (10) this relative of yours saw you? -- Yes.

Yes, in terms of what law and for what reason were you held, did you think you were held? -- The Terrorism Act.

Did you request to see your relative or did he just come on his own? -- I did not request it.

Do you know how it came about that he saw you? -- No.

What did he see you about? -- He brought an overcoat for me.

Is that all? -- And money.

Did he say anything to you? -- No.

Not a word? -- He greeted and told me to look after (20) myself.

And where was this? Was it here in Grahamstown? -- Yes. He told me that he had come from East London and that he did not find the captain there. He enquired about me and he was told that I was here at Grahamstown.

Do you know how he came to know about the captain? -- Yes.

How did he know? -- At East London.

And at that stage when your uncle saw you, did you know that you were going to give evidence? -- Yes.

And had you made up your mind that you were going (30) to give evidence? -- No.

When/...

When your uncle saw you last week on Thursday you say you had not made up your mind whether you were going to give evidence or not. Is that correct? -- Yes.

What was your intention at that stage? What did you want to do? -- Not to give evidence.

And did you convey this to either the captain or any other policeman that was holding you, that you were not going to give evidence? -- No.

Had you told them that you were going to give evidence? -- I did not tell them. (10)

You had not? -- No.

They just brought you to Grahamstown without knowing whether you were going to give evidence or not. Is that correct? Is that what you are saying? -- They told me.

Did you say anything to them? -- At that stage?

Yes. -- No.

What did they tell you? -- They told me I am just going to give evidence.

Anything else? -- So I agreed.

But I thought just now you said that you had not at (20) that stage made up your mind whether you are going to give evidence or not, unless I am wrong, M'Lord, I may be wrong.

BY THE COURT: Correct. He started off by saying at that stage he had not made up his mind. That was when his uncle was here. You asked him if he had made up his mind at the stage when his uncle was here, and his reply was at that stage he had not made up his mind.

MR SKWEYIYA: When were you brought to King William's Town - to Grahamstown, I am sorry. -- Last week on Wednesday.

Is that then when you were told that you were going (30) to give evidence? -- No.

When/...

When was it then when you were told that you were going to give evidence? -- It was at East London.

When? -- I do not remember the date.

What about the month? -- During May.

What date in May? -- I do not remember the date.

BY THE COURT: He has already said he cannot remember the date.

That is why you asked him what month.

MR SKWEYIYA: I am sorry, M'Lord. Well, this is surprising you know, that you cannot remember the day, precise day and the date of something which happened in May. To me it (10) is surprising because yesterday you were giving precise dates about what happened last year. Are you able to give any explanation why you are able to remember dates of events last year, when you cannot remember dates of events this year? -- Days meant nothing to me in jail, I did not know the dates.

And when you spoke to a policeman you told him that you were going to give evidence or he told you that you were going to give evidence. Is that correct? -- He told me.

And what was your reaction? Your reply? -- I do not want to give evidence was my reaction. (20)

And who is the person who spoke to you? -- The captain.

Which captain? -- Captain Schoeman.

And you say this was in May. -- Yes.

And at East London. -- Yes.

And what happened thereafter? -- After that the Attorney-General arrived and the Prosecutor.

Yes? Are you able to give us an indication when this took place? -- Towards the end of May.

Yes, what happened then? -- The Prosecutor and the Attorney-General told me to relate my statement. (30)

Yes, did you do so? -- Yes.

And/...

And at the time that you were relating your statement, you had your statement before you? -- No.

When last did you see your statement, all your statements? -- On Tuesday.

Which Tuesday? -- Of this week.

Where? -- In the cells here.

And who came in to you that day and gave you the statement? -- The captain - Captain Schoeman.

And had you told him in between that you were going to give evidence? -- Yes. (10)

When? -- When he told me at East London that I am going to give evidence.

You told him that you were going to give evidence in East London when he told you that? -- Yes.

And did he say anything else to you? -- No.

Did he tell you at whose trial you were going to give evidence? -- He told me who were charged.

Did he give you your statement at that stage or not? --No.

When last had you seen your statement before that day? -- Before which day? (20)

Before the day when you told the captain that you are prepared to give evidence? -- February.

And when did you change your mind about giving evidence? -- Here.

Between February and when you appeared in court here the day before yesterday? -- From February up to before the captain arrived I did not know that I would be giving evidence.

That reminds me again. When did the captain arrive? -- In May.

He just told you that you are going to give evidence, gave you the names of the persons who were charged (30)

and you said yes, I will give evidence. Is that what happened?
-- He told me that I was not charged and then he told me of those who were charged. And then he told me that : you are going to give evidence.

And then you said: yes, I will give evidence. -- I was reluctant at first.

Yes, how did you show your reluctance to him? -- If he could have seen my attitude, he should have known.

What did you say to him? -- I said yes.

But how did you convey to him that at first you (10)
were not willing to give evidence? -- My attitude and I paused for a while.

You paused for a while, yes? -- And I said yes.

For how long did you pause? -- About 3 minutes.

And from that you say that the captain should have known that you were refusing to give evidence?

MR ENGELBRECHT objects - Mr Skweyiya intervenes and both speak simultaneously.

MR SKWEYIYA: That you were reluctant to give evidence? -- That is my presumption. (20)

Where were you precisely when the captain approached you? -- In the cellar.

BY THE COURT: Cell or cellar? -- Cell.

MR SKWEYIYA: Did he enter the cell, close the door and sit with you and talk to you? -- He entered the cell, not closing the door, and spoke to me.

Just the two of you inside the cell? -- Yes.

Right, you paused for 3 minutes and then what did you say after pausing for 3 minutes? -- I agreed.

And then what is the next thing that happened there- (30)
after? -- The next thing was when the Attorney-General and the/...

the Prosecutor arrived.

Did Mr Schoeman tell you what the charges against these accused were going to be? -- No.

And what did you think you were going to give evidence about? They could have been charged for theft, they could have been charged for killing somebody for all you know, they could have been charged for having gone on strike at school. -- He told me: you are going to relate your statement at court.

Did he tell you what statement you were going to relate at court? -- Yes. (10)

What statement did he say you were going to relate at court? -- The one they took from me at East London.

When was this statement taken from you? -- That one?

Yes. How many statements did you give or make? -- Firstly they gave me paper and pen. This was in January.

Where? -- In the offices at Sanlam Building.

Who gave you paper? -- A Mr Venter.

And who else was present when Mr Venter gave you paper? -- Another sergeant.

Do you know his name? -- I do not know his name. (20)

But you know him by sight? -- Yes.

And this Mr Venter and this other man, are they the same people who arrested you when you were arrested on the 2nd January this year? -- No.

Yes, they gave you this paper and then what did they say to you? -- I must write all I know about SASM.

Who said that to you? -- Mr Venter.

And where were you?

BY THE COURT: In the offices at Sanlam Building was what he said. (30)

MR SKWEYIYA: And what time of the day was this? -- In the afternoon/...

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