

IN THE SUPREME COURT OF SOUTH AFRICA.
TRANSVAAL PROVINCIAL DIVISION.

The Attorney-General of the Transvaal Province, who as such prosecutes for and on behalf of the State, presents and informs the Court that:-

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|------------------------------|-------------------------------|
| 1. JEFF KGALABI MASEKULA ✓ | 10. MICHAEL MOHLOLO. ✓ |
| 2. KLAAS MASHISHI. ✓ | 11. RAYMOND MOLEFE ✓ |
| 3. SIMON BRANDER. ✓ | (also known as PERCY MOSALA). |
| 4. JOHN NKZI. ✓ | 12. THILBERT MOKLAKA. ✓ |
| 5. PETER MEGOTSO. ✓ | 13. BENNET KHAAS. ✓ |
| 6. DIKGANG ERNEST MOSENEKE ✓ | 14. PATRICK MATUME. ✓ |
| 7. NDAKI SOLOMON MADUME. ✓ | 15. ABSOLON NKWE. ✓ |
| 8. PETRUS MOHLALA. ✓ | 16. MARK SHINNERS. ✓ |
| 9. ISAAC MAFATSI. ✓ | |

18 June

(hereinafter called the accused), are guilty of the offence of SABOTAGE in contravention of section 21(1) of Act No. 76 of 1962:

In that at divers times during the period 1st January, 1963 to 31st March, 1963 and at or near Atteridgeville in the district of Pretoria the accused did wrongfully and unlawfully conspire with each other and with divers other persons to aid or procure the commission of or to commit the wrongful and wilful acts of murder, public violence, assault with intent to commit murder, assault with intent to do grievous bodily harm, arson and malicious injury to property whereby they would have

- (a) injured, damaged and endangered the health and safety of the public;
- (b) obstructed and endangered the maintenance of law and order;
- (c) damaged, destroyed, rendered useless or unserviceable and endangered property, whether movable or immovable, of other persons or of the State.

ALTERNATIVELY that the accused are guilty of the offence of SABOTAGE in contravention of section 21(1) of Act No. 76 of 1962.

In that during the period and at the place and in the district in the count abovementioned, the accused did wrongfully and unlawfully incite, instigate, command, advise, encourage or procure divers persons to commit the wrongful and wilful acts abovementioned.

In case of conviction the said Attorney-General prays for judgment against the accused according to law.

R.W. REIN.
ATTORNEY-GENERAL.
(TRANSVAAL PROVINCE).

JS/

(17) 101 11.1

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FURTHER PARTICULARS.A. Ad Main Count:

1. The "divers other persons" with whom the accused conspired are :-
 - (a) Robert Ramasodi, Kenneth Moletedi, Walter Mashiloane, Evalt Ramatsue, Philip Mogaswa, Matthews Seabi, Abesai Dimpi, Nathan Molope, Victor Thulare, Gladwin Khoza, Elias Kekane, Frederick Ramatsue, Lazarus Loate;
 - (b) Persons to the prosecutor unknown.

2. Further details of the wrongful and wilful acts are:
 - (a) To kill anyone who disclosed any of their plans or those of the Pan Africanist Congress or anyone giving any information to the South African Police thereanent;
 - (b) To kill one Harry, a Bantu policeman and one Rolly;
 - (c) To gain freedom for the Bantu in the Republic of South African in the year 1963, to fight for this freedom and to shed blood for it;
 - (d) To prepare for and thereafter to fight the white persons, to drive them out of the Republic and/or to kill, murder or enslave them;
 - (e) To collect, store and conceal unexploded bombs of various types and to get weapons and ammunition for the fight;
 - (f) To encourage Bantu domestic servants to poison the food of the white persons for whom they work;
 - (g) To set fire to buildings and to damage other property of white persons;

- (h) To arrange for a concerted attack upon Pretoria from the north, east and west on a certain day;
- (i) To take over the property of white persons and of the State during and after the fight;
- (j) To take over the government of the Republic.

3. The manner in which the accused conspired was as follows :-

- (a) All or some of them in various combinations and on various dates, some of which are mentioned in paragraph (d) hereof and some to the prosecutor unknown, but within the period stated in the indictment, met at meetings of the Pan Africanist Congress (an unlawful organisation);
- (b) Accused Nos. 1 to 11 and No.16 addressed the above-mentioned meetings in connection with and advocating the wrongful and wilful acts specified in the indictment and in paragraph A.2 hereof;
- (c) All the accused, at various times within the period stated in the indictment, attended some or all of the aforesaid meetings and agreed with those who spoke thereat;
- (d) The times and venues of all the meetings are not known to the prosecutor but certain of the meetings were held at the following places:
 - i) The football grounds,
 - ii) The graveyard,
 - iii) Near the railway line,
 - iv) 351 Maunde Street,
 - v) Accused No.7's house.
 - vi) The golf course,
 - vii) Accused No.1's house,
 - viii) 67 Morwe Street,
 - ix) The house of one Pasha,
 - x) Accused No.16's house,
 - xi) 19 Tulare Street.

The dates of certain of the meetings held at the above places are :-

- ii) One in the first week in March 1963, and one on 18th March 1963,
- iv) Middle of January 1963,
- v) Middle of February 1963,
- vi) Beginning of March 1963,
- vii) Beginning of January 1963.

4. The State is unable to indicate the dates upon which the various accused entered into the conspiracy but they were all actively conspiring by 18th March 1963.

B. Ad Alternative Count:

1. The "divers persons" whom the accused incited, instigated, commanded, advised, encouraged or procured are :-
 - (a) Each other;
 - (b) Xs in paragraph A.1(a) and (b).

2. The manner in which the accused incited, instigated, commanded, advised, encouraged or procured the persons mentioned in paragraph B.1 hereof to commit the wrongful and wilful acts specified in the indictment and in paragraph A.2 hereof was that the accused mentioned in paragraph A.3(b) hereof made the speeches therein mentioned and all of them present agreed therewith in the presence of some or all of the said persons.

ON RESUMING AT 12 NOON: PLEASE OF THE ACCUSED

ACCUSED NOS. 1 TO 6: Not guilty.

ACCUSED no. 7: Guilty.

ACCUSED NOS. 8 TO 16: Not guilty.

MR. HARWOOD: There hardly now appears any necessity for any separation of trials - I am going to lead full evidence in this matter, so if Your Lordship will tell Accused No. 7, that in the particular circumstances a plea of NOT GUILTY will be entered in his case, and the trial will go on in the usual way. 10

BY THE COURT: I think I had better explain to the accused that if there should be anything that they do not follow, they must immediately ask the interpreter, who will interpret to them what has been said.

MR. HARWOOD TO COURT: It is not my intention My Lord to open this case with a long address, we have wasted so much time, and unless Your Lordship particularly desires it, it is not my intention to offer any address?---No.

And also I would like to explain to the court and the my learned assessors that I am difficultly placed in the leading of evidence in certain chronological order as I would have liked to have presented it, for the reason that these postponements have involved me in certain administrative difficulties. Also certain of the witnesses have been involved in very great difficulty. For instance this man is a principal of a school, and he has already been three separate days out of his school. So certain witnesses I am going to dispose of as quickly as I can, despite what might otherwise be chronological or reasonable order. 20

ALBERT FREDERICK KAKANA, declares under oath 30

EXAMINATION BY MR. HARWOOD:

Now you understand English?---Yes, I do.

Now you are the principal of the Banaren School at Attridgeville?---Yes, I am.

And do you know Accused No. 1, Jeff Masemula?---Yes, I do.

Who is a teacher at your school under you?---Yes.

Now do you remember a certain day some time in the earlier part of this year when this gentleman Detective/Sergeant Ferreira came to your school?---Yes, I do.

And did you indicate to him in a classroom in your school a certain box which you knew to be the property, 10 and contained the things of Accused No. 1?---Yes.

Did you actually unlock this box for the detective?---Yes, I did.

And he examined its contents?---Yes.

And he took certain things out of that box?---Yes.

Among them was this Exhibit I. (Shown to witness).---Yes.

I want to know if you can tell me whose book that is?---This is a notebook.

Belonging to? Who does it belong to?---I wouldn't 20 say I know who it belongs to, except that it was found in the bookcase.

Of Masemula?---Yes.

Do you know that handwriting in it?---There are several kinds of handwriting in it.

Do you see Masemula's handwriting in it?---No.

Not at all?---Not at all.

Just have a look through all the writing and see if you see?---It is not the same type of handwriting.

If they are different handwritings, just look 30 and see whose handwriting you see? (Witness looking through book).---I don't know whose handwriting this is.

You don't see any of Masemula's there?---No.

At all?---No, not at all.

Right.

MR. HARWOOD: No further questions.

CROSS-EXAMINATION BY ACCUSED NO. 1:

You say you opened the box in my classroom. Where did you get the key?---Where did I get the key.

Yes?---From the caretaker's wife.

How did the key get into her hands, because I never leave it with her?---I have no idea how it got there, except that when I went to her, she gave me the key that day. There was a key - it belonged to Mr. Masemula's cupboard.

Is that notebook the only article you got out of my cupboard?---I have no idea about other things, I was shown only the notebook by the detective.

Was the cupboard really closed, or did you find it open?---It was locked.

BY THE COURT: The cupboard was locked?---Yes. And I can go further to explain how I obtained the key. There is a little girl in the classroom who looks after the kitchen cupboard. She went and collected the key for me from the caretaker's wife.

CROSS-EXAMINATION BY ACCUSED NO. 1 (CONTINUED):

When the detective took that notebook, did he page over for you to see what was written inside there, or what was contained in there?---No, that was not done.

BY MR. HARWOOD: May I just interrupt My Lord to explain that the detective will be called as to what he found in the box?---Yes. The detective will be called to tell the court about everything that he found in the cupboard. 30

ACCUSED NO. 1 TO COURT: I am not referring to the cupboard My Lord, I am referring to the book itself. Did he page

the book over?---The book?

Yes?---Do you want to see the book?

I want to know if the book was paged over for him to see what was contained in the book, or if they just bundled the book and went away?---Yes.

BY THE COURT TO WITNESS: Did you see what was in the book at the time? or not?---No, I didn't see what was in the book. I was only shown the book.

ACCUSED NO. 1: No further questions.

ACCUSED NO. 2 TO 16: No questions. 10

MR. HARWOOD: No further questions.

MR. HARWOOD: I may mention now My Lord, that the only thing of importance in this book is what is found on the back cover?---Is that the only thing of importance?

The only thing of importance in this book.

BY THE COURT: Ask the accused whether he has seen this picture in the back of the book, and tell him that at the moment the court is informed, that that is the only relevance of the particular book?---I saw it for the first time when the detective Mr. Ferreira, showed it to me. 20 Pointed it out to me. I did not know about it before that.

Yes, well I didn't ask him for an explanation, I merely wanted to know whether he has seen that picture in the book?---Yes, I have seen it.

Any questions he now wishes to ask?---No.

ENOCH GEORGE KOLA, declares under oath

INTERPRETER: Pedi

EXAMINATION BY MR. HARWOOD:

Now what language do you speak?---Pêdi, Northern Sothe. 30

Are you going to speak in Pedi?---Yes.

E.H. KOLA.

Now Enoch you live in Atteridgeville in Pretoria?

---Yes.

And you work at the Protea Furnishers in Paul Kruger Street?---Yes.

You have had that work for a long time?---Yes.

How many years have you worked for that firm?---
Two years and four months now.

Now you are also interested in the Methodist Football Club in Atteridgeville, is it not?---Yes, a prominent member. 10

And on the 17th of March 1963, were you actually appointed the Assistant Secretary of the Methodist Football Club?---Yes.

Now you have knowledge of the minutes of the Methodist Football club and all its goings on?---Yes.

Now there was ofcourse a meeting on the 17th of March 1963?---Yes.

And at that meeting was a person called J.L. Matjeela appointed as Chairman?---Yes.

Now do you know that man very well?---Yes. 20

No. 6 Accused stand up please? (Accused stands up).
Do you know No. 6 accused?---I do.

Did he ever have any office on the committee or have anything to do with the organisation or the running of the Methodist Football Club in Atteridgeville?---He was a member.

Was he ever the chairman?---No.

Was he ever a player?---Yes.

Was he a prominent player or not?---I wouldn't be sure about it, because the younger generations, they play 30
earlier in the day.

Have you seen him at all at football matches when

the Methodist Football Club has been playing, as a spectator?---Not during this year.

Have you seen him play football at all this year?
---Several years ago, not recently.

Not recently. Now I want you to cast your mind back to the 7th of February 1963, there was a meeting of this football club held in the school building of the Matabata School in Atteridgeville?---Yes, there was.

Do you remember that meeting?---Yes.

This was an Annual General Meeting?---No. 10

What sort of a meeting was it?---A weekly meeting.

Allright. Was any committee appointed at any election at that meeting?---No, only on the 17th not on that day.

On the 17th of March?---Yes.

MR. HARWOOD: No further questions.

CROSS-EXAMINATION ACCUSED NO. 6:

Do you know that I was a member?---Yes, I know that you were a member.

At the first meeting that was referred to, what 20 was the purpose of that meeting? What was done that day?
---It was a preparation for the annual general meeting.

And do you remember the meeting of the 7th there was a committee that had already been elected?---No.

There was a misunderstanding. I'll put the question again - that at the meeting on the 7th a committee was elected on that day, on the meeting of the 7th?---It was not elected on that day.

Do you remember what happened on the meeting of the day of the 17th?---Yes, I do. 30

What happened?---There was an election,

According to what I know, there was elections on

the 7th of February, and I put it to him that there were elections on the 7th and I have nothing more to say.

ACCUSED NO. 6: No further questions.

ACCUSED NO. 1 TO 5: No questions.

ACCUSED NO. 7 TO 16: No questions.

MR. HARWOOD: No re-examination

Witness is excused.

JACOBUS LODEWIKUS BARNARD, declares under oath

MR. HARWOOD asks if witness will give evidence in English -

No objection.

10

ACCUSED NO. 1 asks for pens and paper on which to make notes

---Arrangements will be made in the luncheon adjournment.

EXAMINATION BY MR. HARWOOD:

Now Mr. Barnard you are a Magistrate in the Department of Justice, stationed at Pretoria Magistrate's Office?---That's correct.

Now on the 22nd of April 1963, Mr. Barnard, did Accused No. 1, one Jafta Kgalabi Masemula, come to make a statement before you?---That is correct.

20

That is that man there?---That is Accused no. 1.

Accused No. 1. He was brought to you by detective-sergeant Ferreira, this gentleman here. (Mr. Ferreira pointed out to witness)?---It is correct.

And did you thereafter interview him alone?---He was interviewed in my office alone. The interpreter was present at the time, but before he made any statement, I asked him whether he required an interpreter, and he said no he was going to speak English, and the interpreter then left.

30

So thereafter you and he were absolutely alone?---
That is correct.

And did you come to any conclusion as to his mental state?----He appeared to be in his sound and sober senses My Lord.

And what further did you observe in connection with him Mr. Barnard, or what further did you say about..?---- There was nothing particular. I asked him what he was coming to do there and he said he wanted to make a statement to me.

So what did you say to him then?---I then said that I am going to put certain questions to him. I first warned him that he was not obliged to make any statement to me at all.

Yes?---But if he did want to make a statement, that will be reduced to writing and it may be used in evidence against him later.

BY THE COURT: Did you use the printed form which is now-a-days fairly common, the renewed form?---I did use a renewed form, yes.

And did these questions appear on that form?--- The questions appear on the form. I noted his replies to 20 it.

EXAMINATION BY MR. HARWOOD (CONTINUED):

Now then will you just read out the questions and the answers that you put to him Mr. Barnard?---I asked him "do you understand the warning given to you?" His reply was "yes". "Do you want to make a statement?" "I do want to make a statement". "Have you been encouraged to make the statement, or have you been influenced to make the statement?" His reply was "I have not been encouraged or influenced to make a statement". "Do you expect any benefit if you make a statement?" "No". "Are you aware that you are in the presence of a Magistrate?" "Yes." 30

"Have you already made a statement in this connection, and if so where and to whom?" "No, to nobody else". "When were you arrested?" "On 23/3/1963".

So you were seeing him on the same day on which he was arrested?---On the same day, yes.

No, I beg your pardon, the 22nd of March?---On the 22nd of April I saw him and he was arrested the month before.

The month before, yes. Now then did you ask him any further questions Mr. Barnard, before he made any statement thereafter?---I did. 10

What did you ask him?---The questions I have noted. "Have you been assaulted by anyone since your arrest?", and his reply was "No, by nobody".

And did you ask him any further questions?---Yes, "Have you any injuries"? and he said "no injuries".

Did he appear to have any injuries?---I made a note that the said Masemula had no visible injuries.

Now Mr. Barnard before we go any further, I think it is right for you to know there has been a suggestion that in some manner or other these confessions had been extracted or enforced out of these accused. So I want you to tell me, why did you put that question, as to whether he had been assaulted?---I normally put that question, because I have found in the past that persons made confessions to us, and then later on they say that they had been assaulted.

I see?---So, I asked it out of the team. I didn't have any suspicion at all that he had been assaulted.

You had no suspicion. Nothing prompted you that here was someone who had possibly been ?---No. 30

Nothing of that nature?---No. No suspicions.

As we say in the law, you put that question ex

abundante?---That' correct.

Now thereafter Mr. Barnard, did Masemula freely and voluntarily make a statement?---Yes.

And ~~was~~ you reduce to writing what he said?---I did.

And you put no questions to him except questions necessary to elucidate any vagueness which he had in his statement?---Yes.

And in fact, Mr. Barnard, was he fluent in English? ---He was quite fluent in English. 10

You had no difficulty in understanding what he was talking about?---No difficulty at all.

Have you any doubt whatsoever, that you might conceivably have recorded something incorrectly?---No.

Now I wonder if you would please read what he said to you?

BY THE COURT: Now before you do that - This amounts to a confession you say?---Well it is a statement before the Magistrate, made in the form of a confession My Lord, and I'll take the court completely into my confidence, the do- 20 cument will be before Your Lordship in a moment, he names in this confessions, many other persons including other accused. Now I know that is not pamissible in evidence,

Not admissible against the others?---Not admissible against them, but it does invigilate the confession as such.

But in the circumstances, I want to give No. 1 Accused an opportunity of indicating whether he agrees to this statement being made, or whether he has any objection to it.

BY THE COURT TO ACCUSED NO. I: Accused No. I, you have 30 heard what this witness has said. He has said that a month after your arrest, you were brought in to him and you made

a statement to him. Now the statement that you had made to him will only be admissible if it was made freely and voluntarily. Do you understand what that means?---I understand My Lord.

Now what is your attitude? Can that statement go in, or do you want to contest that is made freely and voluntarily?---I want to contest that.

You want to?---I want to prove that it was not said voluntarily.

That it wasn't a voluntary statement?---Yes. 10

ASSESSORS ASKED TO LEAVE THE COURT BY JUDGE.

BY THE COURT TO ACCUSED NO. 1: I have asked the Assessors to go because they are not interested in whether this statement is to go in or not. That is for me to decide, and it would not be proper for them to hear some of the evidence if I should afterwards come to the conclusion that this statement should not go in. This statement that you have made is therefore not published at all at this stage until I have decided whether it can go in as evidence or not. You may now, on this particular matter, 20 on this point only, you may now ask the witness questions but it will be only on the question of how the statement came to be made. Do you understand that? You can't deal with what is in the statement now or any other parts of your case. At this stage you can deal only with how you came to make this statement. Is that clear to you?---It is clear, you told me that I must only deal with the circumstances under which I made the statement.

Yes, I'll give you an opportunity to do that. First of all have you any questions to ask of this witness, 30 because this witness has stated that you had said to him that you were not influenced. That you were not encouraged

to make the statement. That you did not expect any benefit. That you knew you were before a Magistrate. That you had not been assaulted since your arrest. That you had no injuries, and he could see no injuries. Now, have you any questions to ask of him about that matter?---Yes.

CROSS-EXAMINATION BY ACCUSED NO. I:

The first question is this, I want to ask him how long he has been a Magistrate. How long has he dealt in such cases?---For about 10 years My Lord. I haven't been a Magistrate for 10 years, but I was taking confessions for about 10 years.

So that in itself means that you are quite acquainted with the moods of people, who are presented before you to make statements?---I don't quite follow what he means.

BY THE COURT: Do you mean, does this witness know what happens when a statement is made before him?---No, I want to know from him if he knows the different ways of behaviour of the people brought before him to make a statement. How they feel, their emotional conditions?

CROSS-EXAMINATION ACCUSED NO. 1:

---Well it would be difficult to judge, but the accused I'll say was quite calm and collected when he appeared before me.

In your own opinion, would you say that I was quite free when I made that statement?---Yes.

In what position was I when I gave you the statement, was I sitting with my hands on the table, was I standing, was I sitting on a table or a chair or so on?--- Accused was sitting in my office.

The position of my hands, did you notice?---I can't remember whether he had his hands in his pockets or was hanging at his sides.

The question of the assault, or of injuries. You

asked me if I had injuries?---Any injuries.

Any injuries, and I said no. If I ask you this question, did you perhaps note the tone in which I answered, what would you say?---The Accused just replied that he had no injuries and I made the note that he had no visible injuries, that I could notice.

Did I not hesitate in giving you that answer?---
No, not at all.

You should have noticed that my hands were placed below the level of the table, away from your side, because 10 they had injuries?---I noticed the hands of the accused later, he was smoking. He asked me a match, and he had no injuries on his hands at all.

Did you take the trouble of finding the presence of any injuries on my body? I take it it should be your duty to find out if there were any injuries, even if the answer is given that there are no injuries?---I did not conduct a medical examination. In fact I could not. I asked him whether he had any injuries, he said no, and I could see none on his face, or the visible parts of his body.20

What answer did I give you when you asked me whether I expected any injuries. Not the answer I'm sorry. What remark did I make before giving you the answer to the question?---Which question.

What remarks did I make, or what question did I put to you before giving you the answer to the question, do I expect any benefit from making a statement?---You made no remarks at all, you said you expected no benefit.

Didn't I ask you what was meant by benefit?---No.
He did not My Lord.

30

I put it to you that I did!---I deny that.

BY ACCUSED TO COURT: With the court's premission My Lord,

may I have a look at the first question of the statement?

---Yes. (Accused looks at statement).

Question 7 on this statement has no answer. It is just a blank.

BY THE COURT TO WITNESS: What is the question?---The question is "why do you desire to repeat the statement", because in question 6 it is said he had not made a statement to anybody else.

BY THE COURT TO ACCUSED NO. I: The question before is had you made a statement to anyone else before? ~~Your~~ reply to 10 that was "no". Therefore it wasn't necessary to ask the next question, which was, if you had said yes, "why do you want to repeat the statement"?---I see.

ACCUSED I: I want to put it to the Magistrate that there has been a discussion of this case before and I get that as a result of his answer to the Prosecutor when he asked him why did he ask ~~me~~ a certain question, to which I answered I have not been encouraged to make the statement.

BY THE COURT: He was asked why he had asked you whether you had been assaulted, and his answer was that he normally asked 20 that question, because very frequently, people who had made statement afterwards say that they had been assaulted. Now that is why he said he had made...asked you that question. Now ^{you} wish to ask him what now?---I want to know if he, the Magistrate did not discuss the case with the detective in question.

WITNESS: I did not discuss it with the detective in question, but counsel for the State this morning asked me why I had asked this question to the accused, and I gave him the same reply that I had given the court now.

30

CROSS-EXAMINATION BY ACCUSED NO. I (CONTINUED):

About how many such cases did you have before?---

It is difficult to say. I do not keep a record of these confessions taken. In the last month or so, I would say I have taken about....the last two months about four confessions, or statements in the form of a confession.

Of the cases denied by the people who made them was there any truth put in the denial of the statement. Has it ever been proved that they were influenced or forced.

BY THE COURT: Are you asking now about other statements which were being made in the past to this witness. Whether in those cases, it had been proved that the people had been 10 assaulted?---That's right.

Is that the question?---That's the question.

BY THE COURT TO WITNESS: What is your answer?---None of the statements taken by me.

Has it ever happened that it has been proved...?--- There had been allegations but it hadn't been proved.

CROSS-EXAMINATION BY ACCUSED NO. I (CONTINUED):

No steps were taken to prove that?---They did take steps. In the Supreme Court at the trial; Evidence was led in quite a few cases where the accused had said that he had been assaulted, and then evidence was led, and the statement made to me was then admitted later on. 20

ACCUSED NO. I: No further questions.

BY THE COURT TO ACCUSED NO. I: You are now in a position to lead any evidence, or give evidence yourself about the assault that you say took place, which made this statement not a voluntary statement. Do you wish to call witnesses?--- The only witness that I can call is one of the accused.

Yes, and do you want to give evidence yourself?--- Yes, I want to give an account of the assault. 30

Yes, now do you want to call this accused, the witness, do you want to call him now to give evidence? Who

is he?---It is Accused No. 6.

No. 6. Yes, well ask him to come to the box. You understand the position that you can only ask questions about the assault now?---You see, I am not used to the procedures in court.

Yes, that's why I am explaining to you?---I would give an account and the circumstances under which that statement was made? Just to relate it to the court.

ACCUSED NO. I ELECTS TO GIVE EVIDENCE UNDER OATH.

JAFTA KGALABI MASEMULA, declares under oath 10

BY THE COURT: Yes, what do you wish to say?---Some time after I was kept prisoner at Erasme(?) Police Station, detectives came to that Police Station. That was Mr. Geyser and another, whose name I don't know.

Yes?---They took me out of the cell in which I was kept, and I was taken to one of the rooms in the Police Station.

Yes?---They gave me a typed sheet, and asked me to read it. After reading it I became aware that I was about to make a statement, but it was optional. It was an 20 optional affair. I could make a statement if I wanted, or refrained if I don't feel like making a statement.

Is that what they told you?---That's what they told me and that is what I read on that particular sheet.

Yes, and then?---Then they asked me if I was a member of the Pan Africanist Congress. I said no. They entered that at the bottom of that sheet.

Yes?---They asked me to sign it. I signed it, and they took me back to the cell.

Yes?---A few days thereafter Speurder-Sersant 30
Geyser, Speurder-Sersant Piet Ferreira and Speurder-Sersant
ek het nie sy volle naam nie, ons noem hom Keppie.

Keppie?---Keppie.

J. MASEMULA.

Yes?---And yet another. There were four in all.

There were four, yes?---Came to the cell. My presence was required in the Police Station. In one of the rooms in the Police Station.

Did they take you to this room?---That's right.

Yes?---There they handcuffed me, put the cuffs tight round my wrists, and started beating me. I was naked except the short pants I had. They beat me on the body with the bare hands. They gave me punches in the stomach and on the chest. They slapped on the face and gave me 10 blows on the face, and gave me hard (?) I don't know what you call that. I shall demonstrate that, that's cuffs on the back of the neck like that. (Demonstrates to Court).

With the side of the hand?---That's right. That part of it was done by the fourth whose name I don't know.

Yes?---Thereafter they fastened a belt to the handcuffs in the centre, and pulled me around the room. So I don't know if My Lord knows that if these modern handcuffs are disturbed, whilst they are on the wrist, they become tighter and tighter. So then the more they pulled me around 20 the room, the tighter they became and they caused wounds. These scars only remained up to this day My Lord. If you wish to see them. (Shows wounds to Court).

Yes?---I was then asked to lie flat on the floor. I did, and they thrashed me with a belt on the buttocks and on the back.

Yes?---Then they asked me to lean against the wall.

They asked you to?---Lean against the wall of the room. I will have to demonstrate it. I cannot put it into 30 words My Lord. The position.

Do it against the door.---(Witness demonstrates).

J. MASEMULA.

Who did you make the statement to?---To Geysler himself.

Yes?---He drove me back to the Erasme Police Station, where I was kept.

Yes?---Then later came Speurder-Sersant Ferreira, who told me that I am expected to make a statement before the Magistrate. He told me that he will come and fetch me on a day he put, so that I should appear before the Magistrate. He did on the particular day. We went to the Magistrate, and I made the statement before the Magistrate, 10 after he had agitated me on some certain aspects of the case in the statement, that I was supposed to make. And after warning me that I should not say certain things to the Magistrate. He told me that the Magistrate will ask me particular questions, and he recited them to me, and then he gave me answers which I should give to the Magistrate when he does ask me. I remember some of the questions were - "were you influenced by anyone to make a statement?" "Influenced or encouraged". "Were you assaulted" Then he told me that when such questions are asked I should 20 say "I was not assaulted", and "I was not encouraged to make a statement before him", and that I was not beaten up by the Police, and all that. So that when I made a statement before the Magistrate, I was under that kind of fear that if I said anything that would not be in conformity to Mr. Ferreira's wish, then the punishment inflicted upon me would be repeated.

Yes?---That would be the circumstances under which the statement was made.

Yes, you will be cross-examined about that when 30 the court meets again. I would say at this stage that it would be improper to say known anything that has been said in regard to this particular incident, before the whole

Yes, with your back against the wall, with your right knee bent and your left leg across that knee. Your hands above your head, holding the wastepaper basket. Is that correct?---Yes.

Yes?---In that position further blows were delivered to my body.

Yes?---They asked me to ^{sing} see Nkosi Sitelele which is the African National Anthem.

They made you do what?---They asked me to sing a National Anthem. 10

Yes?---Nkosi Sitelele, we call it.

Yes?---And then they greeted me, well I think, I cannot remember who greeted me either, saying "Isweletwe", that was Speurder Geyser saying that.

Yes?---Thereafter they took the handcuffs off, and told me that they will be coming. That was Geyser who said that. He told me that they will come later and I shouldn't be funny when they ask me to make a statement. They said that ^{if} I acted as a gentleman to them they will be very nice to me. 20

Yes?---I was not taken back into my cell, but into Accused No. 6 cell.

Yes?---He was then taken out of the cell and the cell was lock. I don't remember what happened to him, but I remained there for some time.

Yes?---He came back, and I was taken out of the cell into my own cell.

Yes?---A day or two thereafter Speurder-Sersant Geyser came and drove me to the Central Police Station where me asked me to make a statement. 30

Yes?---I did.

Yes?---And he drove me back.

incident has been dealt with, because it might prejudice the accused,

AT THIS STAGE THE COURT ADJOURNS UNTIL 2 P.M.

ON RESUMING:

JAFTA KGALABI MASEMULA still under oath

CROSS-EXAMINATION BY MR. HARWOOD:

Now you then went on to make a statement to the Magistrate which went to seven single-spaced typed pages - a long statement. Correct?---I wouldn't say it was long.

Have a look at the original that you made. It 10 goes to sixteen pages, and if you don't count covers, there are fourteen pages there. Have a look. (Handed to witness). You needn't look at every one, just look at your signature at the end of it?---Yes, I see all this.

Sixteen pages. All that you told the Magistrate? ---That's right.

AND you never once made any mention to the Magistrate at all that you had been forced to make this statement to him or that the police had beaten you up?---I Never.

You never mentioned it. The reason for that was 20 because you were frightened of what detective sergeant Ferreira would do to you if the Magistrate told him that you had said that he had beaten you up?---That is right.

That's the reason?---Yes.

Let's make no mistake about it now, it was Ferreira that you were frightened of, because he took you to the Magistrate, didn't he?---I suppose by Ferreira, you mean Ferreira and Company, because there were evidently four.

No, I didn't know he was a proprietary company, but we can accept I am talking at the moment about Detective 30 Sergeant Ferreira!---My fear was not a rebound of what he would do to me, but he, with the other detectives.

Right, now Mr. Geyser is here, is he not? Is this the gentleman? (Pointed out to accused).---That is the gentleman.

He also you were frightened of?---Yes, very much.

And Mr. van der Merwe?---Yes.

All these people you say, had beaten you up?---Yes, they had.

And you described in the greatest of detail how they did it, forcing you to balance wastepaper baskets on your head and pulling you around by handcuffs and generally slapping you up?---Yes.

Was this the sort of handcuff that you were wearing? ---That is the sort.

This is the type, was it?---Yes.

You show me how, when you were pulled by it, it gets tighter? Is that the type you were wearing, or is this the type? They appear to me to be the same. Show me how when you are pulled by the middle of those handcuffs, your wrists are imprisoned tighter and tighter?---You see I must show you.

Do!---I'll need someone to help me.

20

Right, now you show His Lordship how, when you are pulled by that, it gets tighter and tighter.---(Demonstrates).

And then they got tighter and tighter around your wrists?---Yes, that's right.

And the pain eventually became absolutely unbearable?---That's right.

And they kept you on I suppose, for seven minutes doing this?---Yes.

Each time they were getting tighter and tighter? 30 ---That's right.

And eventually I suppose there must have been

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some severe marks on your wrists, and quite possibly, a break of the wrist?---Exactly.

And where are these marks on your wrists, that you find?---Here. (Shows them to Mr. Harwood).

You say that was the type of handcuff you were wearing?---This is the type, yes.

Now just show those to His Lordship, will you please, and then I want you to please to show His Lordship the mark on your wrists, where you say this occurred?--- (Shows marks on wrist to Court).

10

BY THE COURT: There are two scars on his wrists.

CROSS-EXAMINATION BY MR. HARWOOD (CONTINUED):

(Mr. Harwood also inspects marks on witness' wrists.) Now those marks are on the inside of your wrists, aren't they?---These are, but the original marks were right round the arm.

I'm not worried about that. These marks, which are the only marks which you have now, are on the inside of your wrists, aren't they?---That's right.

20

Now if all the pressure was being effected, getting tighter and tighter, surely there should have been much more play on the outside of your arm, because they were pulling from the inside? Don't^{you}/think so?---Yes, there were marks, but they have faded.

What?---They have faded..In the passage of time they have faded.

No, they have disappeared if its any comfort, to you, but what I am telling you, is you were pulled from the inside, therefore I am suggesting to you, that mae severe marks would have been on the outside of your wrists! Do you agree, or don't you?---I don't agree.

30

You don't agree?---I don't agree.

Were your hands then in this position? When you were pulled about?---They were in that position.

Like I am suggesting?---No.

With the inside of your hands outside?---Not like that.

Oh, well we'll leave that ground. Now you were alone with the Magistrate were you not?---Yes, I was.

Completely alone?---Yes.

Are you suggesting to me that the Magistrate would be a person who would cover up anything in the neighbourhood of assaulted prisoners, which was done by the police?--- Repeat that question.

Are you suggesting that the Magistrate, whom you saw, is the type of person/^{who}would deliberately keep quiet about a complaint that the Police have assaulted you?--- Yes, I had that impression about the Magistrate.

What was your impression?---That if I told him that firstly, he would not bring that to the notice of higher authority, but what he would do was to tell the detective in question about what I told him. 10

Let's make no mistake about this now, so that we have it perfectly clear for the benefit of everyone - you considered that this Magistrate, if you had told him that you had been assaulted by the police, and been forced to make this confession, that he would nevertheless, have not given you any protection, and he would have reported to the police what you have said?---I don't think he would have given me any protection.

And you also think he would have reported you to the police and said these people say...this mansays that you beat him up?---That's right. 30

That's what you think?---That' what I think, yes.

And would that go for any Magistrate?---I don't know.

But you just thought it of this one?---Yes.

Why?---Because I made the statement before him. I wouldn't be thinking of any Magistrate.

I take it that you made that statement, having carefully thought of the effect of it? The effect of it is, that as far as you are concerned any Magistrate in front of whom you made the statement would not have given you protection, and would have told the police!---I don't understand My Lord. 10

Well I thought it was quite clear. I take it that you are suggesting that if you had made the statement in front of any Magistrate, that Magistrate would have been a person who would have not given you protection and who would have told the police that you suggested that you had been assaulted by them?---Exactly.

So any Magistrate, as far as you are concerned, is not trustworthy?---As far as I am concerned, that is right. That's right as far as I am concerned. 20

As far as you are concerned, no Magistrate is trustworthy. Is that correct?---In a matter like this one.

In a matter like this?---That's right.

Would you go so far as to say that no Judge of the Supreme Court is trustworthy?

BY THE COURT TO MR. HARWOOD: I don't think that is a question that I shall allow at this stage.---As your Lordship pleases.

CROSS-EXAMINATION BY MR. HARWOOD (CONTINUED):

Now in any event, as far as you are concerned, you felt that it was no use talking to this Magistrate at all about your difficulties?---That is the way I felt, yes, 30

Now why did you talk to him at all?---I was forced to.

Did Mr. Ferreira tell you that unless you spoke to the Magistrate and made a confession to him that you would be beaten up?---Yes.

And did that also happen with Accused No. 6?--- I wouldn't know what had transpired between him and Accused No. 6.

Allright. Now none of the other accused have made confessions in front of ^{the} Magistrate, except accused No. 6, I tell you that! Now can you explain why you were picked out to be beaten up and forced to make a confession in front of the Magistrate?---I don't know what the reason is. I'm sorry.

Mr. Ferreira says that he has never beaten you up at all! So do the others! Are you quite sure that what you say is true?---Quite sure.

This description which you made to His Lordship this morning, of being pinioned with your back against the wall with a wastepaper basket on your head, that is quite true is it?---That is quite true.

Now were you locked up in the same cell with Accused No. 6 at this time?---No.

Not?---No.

Did you see that Accused No. 6 had in any way been beaten up?---Yes, I saw that.

You saw him being beaten up!---I saw him beaten up.

What did you see happening to him?---He was slapped by Speurder-Sersant Geyser when they had come to fetch him in the cell in which I was locked. In his cell in other words.

That's this gentleman here? (Pointed out to

J. MASEMULA.

accused).---That's right, and then they dragged him out of the cell in to that room into the Police Station.

That was after you had been beaten up yourself?---That's right.

But you don't know what happened to him beyond that?---No, he told me about what happened to him.

Now I'll tell you what Mr. Ferreira tells me. Mr. Ferreira tells me that about a week before you made this confession, he was at the police station, and he says you and you said to him that you wanted to make a clean breast of this, because you had been misled by other people! And he said "well, do you want to make a statement, to a Magistrate?", and you said "yes", and he said "well, when I have time, I will come and get you and take you to a Magistrate". Now is that absolutely false? Because that is what he is going to say?---I'm sorry I'M hearing that for the first time now.

And he will also say that he then took you to the Magistrate and there was no question whatsoever, of any suggestion to you as to what you should say to the Magistrate!20 --- That is not true.

It's also not true?---Yes.

As far as that is concerned, you say that is absolutely untrue!---I say that myself.

He will also say that when he and Geyser and this other man whose name is Vermeulen, and you know they were together. They were there together, they saw some of you. There was no beating up at all! Do you say that that is untrue?---That is untrue.

MR. HARWOOD: No further questions.

30

BY THE COURT: Do I understand you correctly, that you were beaten up some days before you made this statement?---Yes.

How many days before the statement was made?---
Which statement My Lord, I made two statements. One to the
Police and the other to the Magistrate.

You know the only statement we are dealing with
now is the statement to the Magistrate!---I am not quite
sure the number of days, it may range from three to five.

And from then on you were only threatened that
they would beat you up then if you did not make a state-
ment to the Magistrate?---That's what I was told. With
your Lordship's Permission, something I left out. 10

Yes?---I didn't give in the statement. That
the spell of fear under which I lived, there was a accen-
tuating by a pointing of a gun to my forehead, by one
of the white detectives when we were in one of the Police
cars, on our way to Atteridgeville. I don't know his name.

When did that happen?---I'm not sure of the date,
but it was before I made the statement to the Magistrate.

Long before? Shortly before?---I should say
shortly before.

How many days, hours? Same day?---Not the same 20
day. I would say about three to four days.

Now this is a very dangerous thing, was it not?---
It is.

And why haven't you mentioned it before?---Be-
cause it slipped my mind.

It slipped your mind.

Apart from the injuries to your wrists, did you
have any other visible injuries after the assault?---I had
knobs on the back and on the buttocks. I could feel them,
painful knobs, and my thumb and forefinger, lost felling 30
altogether. This portion here had no feeling for some time,
(Indicates to court). Up to now the feeling is sort of

J. MASEMULA:

numb.

There is another question. You say that when you went to the Magistrate, you hid your hands, is that correct?
---Yes, I did.

Why did you do that?---I was told to do so.

And if the Magistrate should have noticed that, what would you have said?---Well I don't know. I would have thought of a reason and given him.

Did they tell you a reason that you could give?---
Well, perhaps I would tell him that.... 10

No, I said didn't the police give you a reason to give the Magistrate if he should see it?---No, they didn't.

Did you ask the Magistrate for a match?---Yes, I did.

Did you take the match from him?---He placed it on the table, and I took it from there.

Would it then have been possible for him to see these marks on your hands?---No, that's impossible.

Pardon?---It wouldn't have been possible.

Why not?---I had my jacket over the marks, like this. 20

You hid them, you say?---Yes.

And how did you take it?---Like this. (demonstrates)

Yes, but now what about the marks on the other side of your hands, your wrists?---Just like that.

6 Where is the mark on your wrist?---Here. (Indicates).

Where is the other mark which had faded?---Around here. (Indicates).

Now wouldn't he have seen that?---No, this place was covered by the cuff altogether.

Is there anything further you wish to say in evidence?---Not in evidence My Lord, but.... 30

Yes, alright then you can go back to the microphone.

Do you wish to call No. 6 as a witness Now?---Yes My Lord.

Yes, will No. 6 come into the box?

DIKGANG MOSENEKE, declares under oath (Interpreted).

BY THE COURT: You are accused No. 6?---Yes.

EXAMINATION BY ACCUSED NO. I:

Did you see me pushed into your cell one day at Erasme Police Station?---Yes.

Would you tell the Court how I looked, regarding my attire, my clothes and what you could notice about me?

---He was clothed in a short pant underwear, and his whole body was naked except that short pants. 10

Yes?---His hair was up and he was a bit swollen around the cheeks here.

Yes?---And then he seemed to have been crying, because these areas were a bit wet My Lord. (Indicates).

Did you utter any word or some words, whilst you were called out. Did you say anything in that cell at that particular moment? Did you say anything to any one, whether to me or the detectives?

BY THE COURT: Did you say anything when he was brought into 20 the cell and you were taken out?---Yes My Lordship.

What did you say?---I asked him what was the matter.

Yes?---And then he told me that he was beaten up.

BY THE COURT TO ACCUSED NO. I: He said he asked you what was the matter and you said that you had been beaten up.

EXAMINATION ACCUSED NO. I (CONTINUED):

That's right. Did I ask you any question.

BY THE COURT: Oh, did you ask him any question?

EXAMINATION BY ACCUSED NO. I (CONTINUED):

30

I'm sorry My Lord. Did you ask any questions, that's right. Did you ask me any question before you clapped

out?---Do you mean in exception to the question I asked you at first, about what was the matter?

Yes?--- I don't remember.

Did the police do anything to you whilst you were still waiting in the cell?---Whilst?

Before you were taken out completely, did they do anything to you?---No, Speurder Geyser smacked me, and then he handcuffed me. The time when you were put in the cell, Speurder Geyser smacked me and handcuffed me.

ACCUSED NO. I: No further questions.

10

CROSS-EXAMINATION BY MR. HARWOOD:

Why?---I don't know.

Did he just smak you and then handcuffed you?--- Yes, he pushed me like this, out of the cell, and then he smacked me, and then he put on the handcuffs and tightened them.

When did that happen?---The time when I was dragged out of the cell.

Was that, are you saying, just before you went to make a confession to the Magistrate?---Yes, it was before 20 that.

Was it just beffre?---Well, it was about a week before.

About a week before, but why did he do it?---On the way to the room...

Why did he do it?---I don't know.

Did you say anything?---I said nothing.

Were you impertinent?---Pardon? No.

He simply....this gentleman here, let's make it quite clear, this gentleman, Mr. Geyser, (Points out Mr. Geyser to witness), this one?---Yes.

30

He simply caught hold of you in the cell, smacked

your face and then handcuffed you?---Yes sir.

What has that got to do with what happened to No. 1?---Pardon?

What has that got to do with what happened to No. 1 Accused?---He was standing on the door the time I was dragged out.

Did this all happen at the same time that he was pushed back into the cell?---No, he was standing on the side. When I was dragged out, he was pushed into the cell.

Let's just try and get the position quite clear, 10 Dikgang - this man Jeff says that on a certain day he was beaten up by the police, and you say that when he returned to the cell, you asked him what was the matter, and he said that he had been beaten up!---Yes sir.

You said you saw that he had been crying? Now you then, was it at that stage, that Mr. Geysler, caught hold of you, slapped your face, handcuffed you and pulled you out of the cell?---By the time I asked the question, I was already smacked.

So it all happened at that time, that same day? 20 ---Yes.

Now when you came out of the cell, where were you taken to?---To one of the rooms in the other Police Station.

And who did you see there, did you see Mr. Geysler, Mr. Ferreira, van der Merwe?---And the other one I don't know.

Mr. Geysler also?---Yes.

And then did they beat you up?---Yes.

Did they?---Yes sir.

What did they do to you?---I was taken into the 30 room and undressed, and then when I was in the room, I was

left with the short underwear only.

Yes?---And then Speurder Geyser had a thick police belt, which he thrashed me along the psinal cord with, then Mr. Ferreira handcuffed me here (indicates) and then he made the handcuffs tight. He put a belt in here and then he started pulling me like this (indicates) and Mr. van der Merwe was pinching me on the body, while the other detective I don't know, was dividing blows on my face.

Now Mr. Ferreira tells me as an actual fact, that 10 is not true at all! That never happened!---It did happen.

You, ofcourse, never saw anything happen to Jeff, did you?---I heard him crying aloud.

You heard him crying?---Yes.

Oh, I see. Now you say this was about a week before you made your statement?---Yes.

Is that right? Now you know the weeks and the months and the days, verywell don't you?---I don't remember the date.

No, I know, but I mean you know that there are ²⁰ seven days in a week and most menths have thirty or thirty-one days, that sort of thing. You knew it, don't you? What standard have you passed at school?---I am in Std. 8.

You're in Std. 8. So you would know these things. Now you say it was a week before you made your statement that this happened?---Yes.

Is that right?---Yes.

I just want to make it perfectly clear in my mind. So that if you made your statement on the 10th of April, it must have happened about the 3rd of April, about 30 seven days before?---No, it was not.

What?---It wasn't.

Well then how long before you made your statement was this assault made on you by Ferreira and Geyser and van der Merwe?---It was about thirteen or fourteen days back, and I remember quite well. It was about thirteen or fourteen days back.

Before you made your statement?---Yes.

Now you made your statement on the 10th of February so we are talking now about the statement that you made to the Magistrate. The statement which no doubt, you are going to say, you were forced to make. There is Mr. van Aard. 10
Mr. van Aard stand up please? (Mr. van Aard stands up).
Did you make your statement in front of that gentleman there? Mr. van Aard?---Yes.

You did. Now you say, what you have described to us here, Ferreira and Geyser, and Vander Merwe beating you up, happened about two weeks, before you made your statement to Mr. van Aard?---Yes.

Are you sure of that?---Yes.

You see you made your statement on the 10th of April or that is the evidence that will be led, that you 20
made your statement on the 10th of April.

BY THE COURT TO MR. HARWOOD: Is the document dated?---Yes
My Lord.

It could be put to him?---As Your Lordship pleases.
I didn't want to do so, because this will probably be an issue too.

Yes, I know.

CROSS-EXAMINATION BY MR. HARWOOD (CONTINUED):

In any event this is the statement that you made to the Magistrate. There is your signature on it, on page 25,30 and you see the date there is the 10th of April, isn't that so? (Document handed to accused).

BY THE COURT: Is that right? Was it the 10th of April?---

Yes Sir.

CROSS-EXAMINATION BY MR. HARWOOD (CONTINUED):

Now you say it must have been about two weeks, I am not trying to hold you to dates, I just want to know, was it about two weeks before you made this statement, that this beating up took place, of No. 1 and yourself?---It was about two weeks.

About two weeks. Allright. Now No. 1 has told us also, that it was about two weeks before he made his statement. I think I'm correct.

BY THE COURT: One week.

CROSS-EXAMINATION BY MR. HARWOOD (CONTINUED):

About one week before he made his statement, that the beating up took place, you see. You heard him give that evidence, about one week. You heard that, you heard that's what he said?---No, I don't remember.

Well, you can accept my assurance that is what he said! That this beating up of which you were a witness, just at the end of it when he was pushed into the cell, took place about one week before he made his statement to Mr. Barnard the other Magistrate. Now he made his statement to Mr. Barnard on the 22nd of April, about two weeks after you made your statement to Mr. van Aard, isn't there some confusion about this?---I think there's something wrong here, about this or that and when.

I'm sure there's something wrong! What I am suggesting to you is in the light of what these policemen here say, is that actually this beating up never took place!---It did.

30

And you say it took place on you as well!---Yes.

And when you made your statement to the Magistrate,

you said to him, so the evidence will run, when you were asked by him, did you expect to make any benefit out of making this statement to him, your answer was "yes, it might help me in court". Now did you say that to Mr. van Aard?---I did.

That is what Mr. van Aard will say you said?---I did, but not voluntarily.

So the police had told you to tell Mr. van Aard, when he asked you, whether you had made a statement before and why you were making this one, to say that you were hoping it would help you in court?---Yes. 10

Which policeman told you to say that?---I don't know if I'm allowed to point at him.

Yes? That gentleman there?---Yes.

Is that Mr. Vermeulen? Is that D/S Vermeulen? Was that the other man who was present in the beating up?---No, he was not present, but he was the detective who took me to the Magistrate, and who told me that.

Did he? Now when you were with the Magistrate, you were quite alone, weren't you? You also did not need an interpreter, and you just spoke to the Magistrate alone? ---There was an interpreter present. 20

You never used him?---No.

You spoke to Mr. van Aard in English, didn't you? ---Yes.

And the interpreter was there all the time?---Yes. Although he wasn't used?---Yes.

Now one of the question that you were asked by Mr. van Aard was whether you have already made a statement, and if so, where and to whom, and you said "Yes, I have made a statement to the C.I.D. I don't know their names, some time last week", and then you were asked to say "why 30

do you desire to repeat this statement", and then you said "there is no particular reason". Now did the police also tell you to make those answers to those questions?--- No.

They didn't?---No, they didn't.

Did you just suck those answers out of your thumb or are they true?---These are my own answers, probably they told me the answers which they thought that would be beneficial to them.

And what answer did they tell you you had to make when they said to you, if you were asked have you already made a statement in this connection? What did they tell you to say?---When I was asked...

By the Magistrate, whether you had previously made a statement, what was the answer that they said you must say?---They didn't tell me any answer. As I said, they told me the answers which they thought were beneficial to them. They didn't tell me all the answers.

I see. Now what were the answers that they told you to make?---Pardon.

20

What were the answers that they told you to make?--- For example, they said....

Take the statement and tell me what questions you were told to answer by the police in proper form? Which of these questions did the police give you the answers to? ---Question No. 3, which is "Have you been encouraged to make this statement, or have you been influenced to make the statement"?---

What's your answer there?---"No".

They told you that you had to say no?---Yes. 30

What other questions were you told to answer, in a certain manner?---No. 4, which is "Do you expect any

benefit when you make the statement"? And the answer being "yes, it might help me in court".

And that answer the police told you to make?---Yes.

Any others? I don't think you'll find any others. Now tell me this - didn't the police tell you to make a certain answer to the question, as to whether you had been assaulted by them?---They did.

They did. What did they tell you to answer to that question?---They said I must not say anything about the beating. In fact, I have scars here, and the policeman 10 said that when I talk to the magistrate, I must not be sitting like this, (Demonstrates) because he will see the scars.

I see. You must also have your hands down. Now which was the policeman who told you that?---(Points).

Mr. Vermeulen told you, that that was what you had to say?---Yes sir.

I wonder how Mr. Vermeulen would know that you were going to be asked that question? Because you weren't asked it were you?---I was also surprised. 20

You were surprised too?---Because I expected it.

It must have been a relief that you didn't have to tell this lie?---It was not a lie.

Did the police not beat you up?---They did beat me up.

MR. HARWOOD: No further questions.

BY THE COURT: Could this incident in the cells have happened before...after you had made your statement?---Which one My Lord?

The statement you made to the Magistrate? You 30 know when No. 1 was beaten and he was brought to your cell,

could that have happened before?---No, I made the confession to the Magistrate after I was beaten.

So it could not have happened after you had made your confession to the Magistrate. Is that right?--- Yes, I was thrashed before I made the confession to the Magistrate.

ACCUSED NO. 1: No further questions.

THE STATE CALLS:

PETRUS ALBERTUS FERREIRA, verklaar onder eed

EXAMINATION BY MR. HARWOOD:

10

Mr. Ferreira you are a Detective-Sergeant in the South African Police stationed in Pretoria?---That is right.

How many years sergice have you in the police?--- Fourteen years service.

How long have you been in the C.I.D.?---Ten years now My Lord.

You had heard the allegations made against you and Messrs. Vermeulen, Geyser and van der Merwe?---I have heard.

The allegation is that on the occawion when the 20 four of you were together, you assaulted accused No. 1 in the manner in which he has described in the witness box?---That is not true.

Is that not true?---That is not true.

Have you ever been present at any assault on Accused No. 1?---I have never been present at any assault on Accused No. 1.

Now tell me how did it come about that Accused No. 1 came to make a confession in front of Mr. Barnard, the Magistrate?---My Lord, a week to ten days before the 22nd of April, the day on which the Accused No. 1 made a 30

statement, I saw the Accused at Erasme Police Station, I was there interviewing another man, who was detained there. Accused told me then that he wanted to make a statement. He used an Afrikaans expression.

Tell us exactly what he said in Afrikaans?---
He told me in Afrikaans "Baas ek wil my hart skoonmaak. Ek was mislei deur ander mense, nou het hulle weggehardloop, sit ek in die tronk en my vrou moet ly onder wat die ander mense my ingebring het."

Now are those the exact words that he used, or 10
similar word?---Similar words.

Similar words, but he spoke in Afrikaans?---He spoke in Afrikaans.

Did you conduct your conversation with him in Afrikaans?---Yes.

En verstaan hy goed Afrikaans?---Baie goed.

Is hy Afrikaans goed magtig?---Afrikaans baie goed magtig.

Nou gaan maar verder aan Mnr. Ferreira, wat het toe gebeur?---Ek het toe aan die beskuldigde verduidelik 20
dat indien hy verkies om so 'n verklaring te maak, indien hy dit voor die Landdros wil aflê, ek hom op 'n dag wanneer daar tyd is, wanneer ons kan reël met 'n Magistraat hom kom haal en neem na die Magistraat, sodat hy sy verklaring kan maak.

Wat het toe gebeur Mnr. Ferreira? Het hy daarmee saangestem?---Hy het daarmee saangestem, hy het nog gesê dit is baie goed, dan kan hy in die tussentyd gaan sit en sy gedagtes baie goed agtermekaar kry. Op Sondag die 21ste April, het ek Speurder-Sersant Victor van die Beilig-30 heids Polisie na Erasme geneem, aangesien hy beskuldigde No.1 wou gespreek het in verband met 'n ander aangeleentheid.

Op daardie dag het ek aan beskuldigde No. 1 gesê, dat daar is gereël, en ons sal jou môre, dit is Maandag die 22ste, kom haal, dan sal jy geleentheid gegun word om die verklaring te maak, indien jy dit nog begeer. Beskuldigde No. 1 het toe aan my gesê dat hy sal baie bly wees as ek hom die Maandag kan neem, aangesien hy nou in die nagte baie min slaap, selfs deur die dag, kry hy min rus, want hy het nou sy verklaring wat hy wil aflê agtermekaar, en hy is bang dat hy vergeet sekere punte en nou bly hy dit altyd in sy gedagte herhaal. Op Maandag die 22ste het ek 10 die beskuldigde gaan haal by Erasme Polisiestasie om 8 v.m. na die Speurders kantore op Sentraal waar ons gehuisves is, gebring en om 2 n.m., het ek beskuldigde oorgeneem na die Landdros kantoor waar ek hom om ongeveer 2.15, ek is nie seker van die presiese tyd nie, aan Landdros Barnard, getuie alreeds geroep, se kantoor geneem het. Hy is alleen in die kantoor. Ek het buite in die gang gewag tot laat die middag.

Kan u vir my sê Mnr. Ferreira, min of meer hoe lank het hy daar met Mnr. Barnard gepraat?---Dit was plus-minus 2.15 tot ongeveer 5.30!

30

5.30 die middag?---Die middag.

Drie ure was hy saam met hom nê?---Drie ure gesamentlik die middag.

Dit is Mnr. Barnard, dié Meneer daar (wys Mnr. Barnard uit) voor die hof, wat vanoggend getuienis afgelewer het?---Dit is so.

Nou in verband met die ander beskuldigde, Dikgang, u het mos gehoor dat hy ook stawende getuienis vir beskuldigde No. 1 gegee het. Nou in verband met hom, hy beweer dat jy ook teenwoordig was wanneer hy deur sekere van die 30 polisie aangerand is. Is daar enige waarheid in daardie storie?---Ek was nooit teenwoordig in enige aanranding op

Beskuldigde No. 6 nie.

Sê vir my Mnr. Ferreira, Beskuldigde No. 6, is 16 jaar oud?---Dit is reg.

Beskuldigde No. 1, is soos dit staan 32 jaar oud, nou sou hulle in dieselfde sel gehou gewees het, en was hulle, of weet u nie?---Nee, op Erasme Polisiestatie was Beskuldigde No. 1 alleen gehou, en Beskuldigde No. 6 was alleen in 'n sel as gevolg van die feit dat hy 'n jeugdige is. Op die dag wat Beskuldigde No. 1 die verklaring voor die Landdros gemaak het, het ek hom die middag teurgge- 10 neem na Erasme Polisiestatie toe, en hy het toe vir my gesê dat dit is baie alleen vir hom om alleen te bly, of ek Ekán nie kan reël dat hy Nr. 6, wat op daardie stadium die enigste twee beskuldigdes was wat daar aangehou is, saam in een sel kon wees nie. Ek het voldoen aan daardie versoek van hulle, ek het hulle saam in een sel gesit, en daar het hulle vir 'n tyd gebly. Toe was hulle later oorgeplaas na Wonderboom Poort Polisiestatie, en daar het hulle ook weer saam in 'n sel gebly.

MNR. HARWOOD: Geen verdere vrae,

20

CROSS-EXAMINATION BY ACCUSED NO. I:

Speurder-Sersant Ferreira, you say you are ten years in the criminal investigation department?--10 years.

So you would undoubtedly have a lot of experience in treating prisoners, and perhaps learning some ways of punishing a prisoner in such a way that the next person would not see the marks as a result of the punishment. You should have learnt that?---I have never made a study of that My Lord, and it was never any intention of mine of assaulting any prisoners.

30

I am not referring to a study, but you should have gained experience?---My experience never.

When you came to Erasme Police Station, did you come expressly to come and see me in particular?---As I have already said in my evidence I came there to see another man who was detained there at the time.

Right, now how did it come about that you spoke to me and I to you?---My Lord, when visiting a Police Station, I'll just explain to the court, there were 174 accused. Arrested, and detained in Pretoria right over Pretoria North Police cells, and when we do visit one of these persons at the Police Station, or had occasion to go there, just 10 have a word to all of the prisoners, because we have received many 'phone calls from the Station Commanders, that a certain man wants to see us, in connection with this case.

Are you suggesting that I was instrumental in one of the 'phone calls you refer to?---I did not suggest that. Accused No. 6 was one of those accused.

Did I 'phone?---I'm not saying that accused No. 1 phoned My Lord.

Would you explain to the court, how it came about that you should know that I wanted to see you?---As I have already explained, when I visit the Police Station, it was our duty to have a word to each and every one of the accused detained in that station.

BY THE COURT: That is in connection with this case, that you...?---In connection with this case.

CROSS-EXAMINATION BY ACCUSED NO. 1 (CONTINUED):

So you came to my cell? Did you?---Yes.

And what did you say to me?---I greeted the accused. There was a lot of food in his cell, there was 30 milk, bread, fruit and I told the accused "you have got a nice holiday here now", and then the accused told me what

I have already told the court.

COURT: Did he?---He told me that in Afrikaans.

That he wanted to make a statement?---He wanted to make a statement.

CROSS-EXAMINATION BY ACCUSED NO. I (CONTINUED):

Does it not strike you as strange that I should just crop up with that request to you when you came, the time when I did not expect you?---No, there was nothing strange in it.

What makes you think that I expected you?--- 10
Nothing made me think that he was expecting me.

Did the conversation go on in the cells or outside the cells?---In the cells.

You were alone, were you?---I was alone with the accused. There was a policeman with a key standing at the doorway.

If we ask the police at the Erasme Police Station, this question, whether they were ever asked by an accused to 'phone the Central Police Station, do you think they will affirm, that accession?---They will have to affirm 20
that Accused No. 6, as a matter, of fact, I think there was about two or three 'phone calls from Erasme Police Station, if I remember correctly, My Lord.

Do you think they will have to affirm?---Yes, they will have to, because that will be the truth.

You say I said to you "Ek wil my hart skoonmaak". Is that what you said?---That is so.

What will you say if I told you that I am hearing that for the first time, this business of making hearts clean, that expression I'm hearing it for the first time 30
from you. What will you say if I told you that?---Well, if you do say that, I'll tell you that you are a liar,

because that is the words which you used the day that you told me you wanted to make a statement.

Do you expect the court to believe you when you say that I am a liar, because of that?---I'm not expecting anything from the court.

Now if I said to you right now that you are a liar, do you expect the court to believe me?---My Lord, its not for me to decide, or to expect anything. I am here to tell the truth, in my evidence.

ACCUSED NO. I: No further questions.

10

MR. HARWOOD: No re-examination.

CHRISTIAAN PIETER GEYSER, verklaar onder eed

VERHOOR DEUR MNR. HARWOOD:

Mnr. Geyser u is 'n Speurder-Sersant?---Ja.

In die Suid-Afrikaanse Polisie, gestasioneer waar?

---Op Wederbrug.

En hoe lank is u Speurder-Sersant?---Van die 1ste August 1950.

Hoe lank is u in die Speurdiens?---Sedert Mei-maand 1947.

20

Die laaste 16 jaar?---Ja.

Nou daar is 'n bewering Mnr. Geyser, dat op 'n sekere dag, ons is nou nie seker wanneer dit was nie, maar dit moet voor die 10de April van hierdie jaar gewees het, wel by die Erasmia Polisiestasie, u saam met Mnr. Ferreira, en Mnr. van der Merwe en nog 'n andere, wat deur Nr. 6 beweer is Mnr. Vermeulen te wees, dat julle vier beskuldigde Nr. 1 aangerand het, by die polisiestasie. Ten eerste, was jy ooit saam met daardie ander drie polisiemanne by Erasmia Polisiestasie, gedurende die ondersoek in hierdie 30 saak?---Op 'n later stadium op die 19de April, was ek wel

saam met Speurder-Sersant Ferreira en Speurder-Konstablae van der Merwe, en die Sersant Vermeulen.

En is daar enige waarheid in die bewering dat op daardie stadium of op enige ander stadium, waar jy teenwoordig was, daar enige aanranding was op Beskuldigde Nr. 1?---Nee.

Of op Beskuldigde Nr. 6?---Nee.

U moet nou mooi verstaan Mnr. Geyser, daar is 'n bewering dat een van die polisie/teen die kop van Beskuldigde Nr. 1 gehou het?---Ek dra geen kennis daarvan nie.^{'n vuurwapen}10

Daar is ook 'n bewering dat hy, nadat hy geboei was, hy rondgeruk was, op die vloer van die kantoor?---Ek dra geen kennis daarvan nie.

En dat 'n snippermandjie op sy kop gesit was, en hy teen 'n muur...met sy rug teen die muur gedruk was?---Nee, ek dra geen kennis daarvan nie.

En dat u teenwoordig was, gedurende daardie geleentheid?---Nee, ek was nie.

Dit is absoluut onwaar?---Ja.

Ek praat onder korreksie, maar ek verstaan die 20 getuienis was dat u die persoon was wat hierdie vuurwapen op beskuldigde Nr. 3 gerig het?---Nee.

In elk geval, as dit so in die getuienis deur Nr. 1 uitgeskreeu is, is dit onwaar?---Ja.

MNR. HARWOOD: Geen verdere vrae nie.

CROSS-EXAMINATION BY ACCUSED NO. I:

Speurder-Sersant Geyser, how many times did you come to the Erasmia Police Station?---Your Worship, three or four times. The first time I came to Erasmia was to remove him to the Magistrate's Court, and on another occasion. The third occasion I was accompanied by Sergeant Ferreira and the others. That was on the 19th of April. 30

You say on the first occasion your visit was... you came there to drive me to the Magistrate's Court?--- I took him from Erasmia to the Magistrate's Court as an escort on that particular day. I think it was on a Saturday.

Do you remember what your mission on the second occasion when you came there?---I just took him to the Magistrate's Court My Lord. I had no conversation with him.

So you did not on any occasion, come there for any purpose, but that to drive me to the Magistrate's Court?10
---Yes.

And did you not at one occasion come to Erasmia Police Station to come and ask me to make a statement?--- No My Lord.

On the day on which you were with the other three detectives, did you speak to me, or see me there?---On the 19th of April, I saw him there at Erasmia My Lord.

You were with Speurder-Sersant Geyser and van der Merwe and the rest?---Ferreira, van der Merwe and Vermeulen.

20

Now I am asking you this question - did you see me and did you say anything to me?---Yes My Lord. He made a certain report to us at the time.

Where did I make that report, inside the cell or outside the cell?---That was when we were next to the meter vehicles, just before we got into the meter cars.

What did I come to do there at that particular spot?---I beg yours?

What did I come to do there, next to the meter vehicles? What was my reason for being there at that particular moment?---You made a report to us, and he took us to a certain place My Lord.

30

But how do you account for my absence in the cells and my presence at that particular spot?---At a particular?

BY THE COURT: Is it at the car?---Yes, the car.

You want to know how it came that you were at the car? What does this witness say, why were you at the car. Is that correct?---That's right.

CROSS-EXAMINATION BY ACCUSED NO. I (CONTINUED):

---My Lord he made a certain report to Sergeant Ferreira, and actually I accompanied him to Erasmia and further on.

When did I make that report to that detective?---10
At the cars.

At?---The metercars. Just before we got into the cars.

I wonder if I am clear here My Lord. I want him to tell me how did I get out of the cells, was it through his request, or was it at the time when we were outside the cells according to the routine and so on. Who called me out of the cells and why. That's what I want to know from him?---My Lord I accompanied Sergeant Ferreira on his instructions, and at the cells Sergeant Ferreira 20
unlocked as well as the constable on duty at the time, unlocked the cells, and he was brought out of the cells to the car.

Do you remember the day on which you asked me a question, whether I would like to make a statement or not?---No, I didn't ask such a question to him.

Do you remember the day on which you asked me whether I was a member of the Pan African Congress or not?---
No.

So you never asked me that question at any stage?³⁰
No.

Don't you remember a day on which the court of you

went in one of the rooms at Erasmia?---The four of us were at the charge at Erasmia My Lord, but not in the rooms. We were standing outside the building.

In other words, you deny the fact that you and the three other detectives, including me were in a room in the Erasmia Police Station? You deny that?---Yes.

If right at the ^{present} moment we 'phoned to the Erasmia Police Station, to ask whether that is true or not, and they say that indeed it is so that I was taken into that room?---I deny that. 10

Where did you first hear this word "Iswelete"?--- My Lord from other natives.

How did it come that you heard that?---Were you asking them questions, or were they just saying that out of the finger?---My Lord in our investigation we came to these words, especially in this particular cases we investigated.

Would you describe to the court exactly how you got to hear about it?---Free information, the first time.

Did the person just come to you and say that we 20 say "Iswelete" or did you ask him?---I know through information that these words were the greetings of the P.A.C. Movement.

You say from free information. How did that information get to you, did you ask for it, or it was said voluntarily to you?---These information we got through informers and through certain investigations we made.

Did you say through informers?---Through informers, yes.

Do you remember saying "Iswelete" to me?---No. 30

Did you not at one stage ask me to sing "Nkosi Sekelele"?---No.

Did you not at one stage tell me that John Nkosi and I had gone to Basutoland?---No, you disclosed that to me.

Excuse me?---You disclosed that to me on the 19th. You told me actually that.

This is very interesting. DID I just say it out of my own free will? All of a sudden, did I just say that to you?---Yes, we were approximately 1½ hours together at the time in the veld, when he started conversation with me.

10

Would you describe to the court how it happened. Did I just out of the blue explained up, I stood up and I told you that, or we had a discussion first and that was interwoven into the discussion as it went on?---On the 19th the accused and myself were in the veld, and he first asked for a cigarette, and I gave it to him. He was sitting on a stone, and I was sitting a few yards away from him. Then we were looking at Attridgeville, on his house, and he made a certain remark about his house. Then he started discussing the movement...the P.A.C. Movement to me.

20

I put it to Speurder-Sersant Geysler that you said those words, you made the statement that John Nkosi and I had gone to Basutoland, when you were pressing me for information! You put certain statements to me and asked me to affirm them, and you told/^{me}that if I do not do so, I shall get a hiding! I put it to you!---I deny that.

And do you know the name of the detective who took me from my house in Attridgeville, the first time I was arrested?---No.

Do you know how these people are sent from their 30 homes? Are they handcuffed. From your home the Police Station?---I suppose so.

The police are kind people, or are supposed to be kind, are they not?---I suppose so.

They wouldn't get the handcuffs very tight around one's wrist so that it becomes uncomfortable. They wouldn't do so?---My Lord, I won't do so. I put it on on the usual way, not too tight, but not loose so he can get his hands out or try to get his hands out.

Do you think the other police do so?---I suppose so My Lord. They don't use force,

How do you account for these marks? Did you see these marks before?---Its the first time I've noticed it in Court today, when you pointed it out to... 10

Would Speurder Geysler be allowed to come and see these marks on my hands?

BY THE COURT: He's seen them. He's said that he saw them today in Court?---I've seen them in court today My Lord.

CROSS-EXAMINATION BY ACCUSED NO. I (CONTINUED):

You do not...you cannot account for these?---No.

Do you know that the handcuffs do cause marks on one's body. On one's wrist if they are too tightly put?--- 20 My Lord through experience, sometimes they start to struggle, and see whether they can't get loose or to break these handcuffs. These handcuffs are a small type, and in the moment you notice it, you won't think its strong enough to hold a person's arms together. In my experience I had that natives or persons started to try to break the handcuffs.

Now you say you never asked me to sing this "Nkosi Sekelele". Do you know the words of the National Anthem? ---The only words I know about is "Nkosi Sekelele", 30 That's all.

Now tell me why did you ask me to supply you with

the words of that song that day?---I never asked you.

I put it to you, you did Speurder Geysers!---I beg yours.

I put it to you, that you did at the time when you were torturing me!---No, I did not.

ACCUSED NO. 1: No further questions.

MR. HARWOOD: No questions.

LOURENS JOHANNES VAN DER MERWE, verklaar onder eed

VERHOOR DEUR MNR. HARWOOD:

Mr. van der Merwe u is 'n Speurder-Konstabel in 10 die Suid-Afrikaanse Polisie, gestasioneer te?---Pretoria Sentraal.

Pretoria Sentraal. Nou u het die bewering vanoggend in die hof gehoor in verband met beskuldigde Nr. 1, dat u saam met Speurder-Sersant Ferreira en Speurder-Sersant Geysers, en ek verstaan ook Speurder-Sersant Vermeulen, hom op 'n sekere dag by die Erasmia Polisiestasie aangerand het. U het daarvan gehoor?---Ja.

Die vier van julle was saam. Is daar enige waarheid in daardie storie?---Nee. 20

U het ook gehoor dat Nr. 6 sê dat Mr. Geysers beskuldigde nr. 1, terug na die sel toe gebring het, en toe vir hom, Nr. 6, uitgeruk het, 'n paar klappe gegee het, en hom geboei het?---Nee.

Is dit onwaar?---Dis onwaar.

Weet u of gedurende die tyd dat hierdie twee beskuldigdes in Erasmia Polisiestasie was, of hulle in dieselfde sel was of in verskillende selle, of weet u nie?--- So ver ek kan onthou was hulle in verskillende selle, wantsons het hulle besoek op die 19de April, want ons het 30 na 'n sekere plek gegaan, en Sersant Ferreira and Speurder-

Sersant Vermeulen en Speurder-Sersant Geyser, ons was die vier bymekaar, en ons het Beskuldigde Nr. 1 uit die sel gehaal en hy was alleen in die sel, en ons het gewag op 'n ander prisoner wat ons mees vergesel het op 'n seektog.

Is dit dieselfde geleentheid, dink u waarvan Mnr. Geyser praat, toe hy sê dat Beskuldigde weer 'n sekere verslag aan hom gedoen het?---Ja, dis die.

Was dit die enigste tyd dat julle vier nou saam was?---Dis korrek. Dis die enigste tyd wat ons vier saam 10 was.

Gedurende die ondersoek in hierdie saak?---Dis reg, ja.

En u sê dit was op die 19de April?---Dis reg.

MNR. HARWOOD: Geen verdere vrae nie.

CROSS-EXAMINATION BY ACCUSED NO. I:

Speurder van der Merwe, you say that....How many times did you appear at the Erasmia Police Station, on this matter?---I was there several times at Erasmia.

More than ten times?---No, not so much. 20

About how many?---About three times.

What had you come to do on the first occasion, when you came there?---I once remember that I took you to Court, and I remember the time we went to look for these bombs.

These were the two occasions only?---That's the only occasions.

But surely you have heard Speurder Geyser when he was given that task of taking me to court. Is it at the time done by this detective and the other times by the 30 other?---Well, I wasn't there with Speurder Geyser when he took you to Court some time. I was there on the other

occasion. I don't remember the date now exactly.

Do you remember how many times we appeared at Court, whilst we were at Erasmia Police Station?---You appeared several times.

What do you mean by several times? Can you give us an explanation?---Four times more or less.

It is less than that?---Well, three times then if you expect me to say it.

Three times. So Speurder Geyser says that he has on about three occasions conveyed me to the Magistrate's Court, and you claim that you did so once, that makes the total four. Why is there such a difference in the evidence. 10

BY THE COURT: Well, this witness said four, and then you said to him no, three! He said to the Court you had been there four times! And then you said to him wasn't it three times, and he said well if you think its three, its three. ---I didn't put any question to him My Lord, I said he should give a right explanation of that, and then he said a four times. When I repeated that, he said three times. 20

Yes, alright go on.

CROSS-EXAMINATION BY ACCUSED NO. 1 (CONTINUED):

So your admissions that you were at the Erasmia Police Station, were only designed to take me to the Court and back, and to the mountain in search of the bombs?--- Yes, where you were connected with.

Yes, alright. You don't remember beating anybody there?---No.

Was there never an occasion when I was with you in a room in the Police Station?---No. 30

I am going to ask the Court to 'phone to the Erasmia Police Station right now, how do you feel about it?

---I feel that about it - you can ask the court what you like.

ACCUSED NO. I: No further questions.

MR. HARWOOD: No re-examination.

JAN GERHARDUS VERMEULEN, verklaar onder eed

VERHOOR DEUR MNR. HARWOOD:

U is Speurder-Sersant in die Suid-Afrikaanse Polisie, gestasioneer te?---Pretoria Sentraal.

Pretoria Sentraal. Hoe lank is u in die Speurdiens?---Ses jaar. 10

Ses jaar in die Speurdiens. Bo en behalwe 'n sekere geleentheid wanneer u saam met Mnr. Geysler, Mnr. Ferreira en Mnr. van der Merwe was, wanneer Beskuldigde Nr. 1 sekere punte aan julle vier uitgewys het op die Skurweberg, was u ooit in hierdie Attridgeville ondersoek betrokke?---Ek was, maar dit was die eerste keer dat ek beskuldigde Nr. 1 gesien het die dag.

En dit was die enigste geleentheid wanneer u hom gesien het?---Enigste geleentheid.

En het dinge gebeur daardie dag, wat u sou laat 20 onthou het dat dit wel beskuldigde Nr. 1 was wat die verslag gedoen het?---Ja.

Onder andere het julle na die Skurweberg toe gegaan?---Dit is korrek.

En sekere bomme gaan optel?---Dit is korrek.

Is dit die engiste tyd in u diens waaronder u bomme soos daardie voor die hof gaan haal het op die Skurweberg?---Dit was die eerste keer.

Neu bo en behalwe dit was u nooit met Beskuldigde nr. 1 nie?---Nooit. 30

Hy beweer, ek weet nie of u vanoggend in die hof

was nie, maar hy beweer dat u saam was by 'n geleentheid wanneer u en Ferreira, van der Merwe en Geysler, hom aangerand het in die Erasmia Polisiestasie?---Dit is nie waar nie.

En hy sê as gevolg daarvan, en die vrees waarin hy daar verkeer het, het hy 'n sekere bekentenis aan Mnr. Barnard die Landdros gemaak het. Weet u iets daarvan?---Niks nie.

MNR. HARWOOD: Geen verdere vrae nie.

ACCUSED NO. I: My Lord, the detective in the box now, is not one of those who inflicted punishment on me. I think he's not the one.

BY THE COURT: But I thought you pointed this witness out, as the fourth one who was there?---No, I mentioned the name.

No. 6 pointed him out. You don't know who the other person is?---I know him by sight I don't know his name.

S T A T E C A S E.

ACCUSED NO. I: My Lord, experience has taught me ever since I was arrested, that whenever anything is said which is 20 contrary to the wishes of the detectives, we should expect punishment of some sort. Right now I feel very unsafe, because I feel we might have a visit from them at any moment in prison.

BY THE COURT: But what gives you an idea, that once you have appeared in this court, anybody is going to give you any punishment, except what this court may give you, if you are found guilty? Where have you ever heard that a man who appears before court, can be in fear that anything will be done to him by anybody else. Have you ever heard of 30

such a case?---My Lord, I do not know of such a case, but what I know is, I have been thrashed by the detectives when I have said anything that is contrary to their wish.

No, but you have just said to me a minute ago, that you stand there in fear! Now what have you got to fear? ---I fear the punishment.

What punishment? By whom?---I fear right now that they are going to visit the prison.

Since when have you ever heard, that any man who is appearing before a court has to fear that he will be visited by police, or by anybody else and punished or injured?---That has been right through, ever since we were arrested. 10

Have you heard of anybody, now I want you to listen very carefully, of anybody who has been appearing in Court, who has had to fear that he would be attacked by gaolers or police or anybody when he left the court to go back to the gaol?---I've never heard of such an occasion.

Now what gives you the thought then that you are in danger as you stand there? Haven't you got the right to tell me?---I have the right to tell you My Lord, but the punishment can take place and then I tell you later when a police.... 20

If you tell me that the punishment take places, have you got any faith that I would look into the matter, and investigate it?---I have that faith.

And you knew that I will do so?---Yes, I know.

And therefore you know that you need have no fear that it will happen, because I will deal with whoever should do anything to you. Is that correct?---I didn't know that. I am glad to know it now. 30

Well now you knew!---I know now.

And if anything does happen to you, while you are in this trial, all you have to do is to tell me about it?---Yes.

And I shall investigate it?---Yes.

ACCUSED NO. I, asks for permission to have Erasmia Police Station telephoned for further witnesses.

COURT refuses to have any more witnesses called.

MR. HARWOOD asks the Court's indulgence of possibly sitting late, as there is another Magistrate who will also be called, has been delayed some days, and Mr. Harwood has been approached by the Control Magistrate of Pretoria, to please release this witness as speedily as possible. (Further discussion in regard to evidence).----It is decided to leave the matter in the Court's hands.

JACOBUS LODEWIKUS BARNARD (Recalled), still under oath

EXAMINATION BY MR. HARWOOD:

Mr. Barnard this is the original statement which you took down and which was signed by the Accused No. 1 in your presence. (Handed to witness)?---It is My Lord.

I would ask you to please read it out to the Court and hand it in. It would be EXHIBIT NO. 2. (Discussion about number of typed copies of statement to be made available).----Witness reads out the whole statement to Court.

Now that was signed Mr. Barnard by the Accused No. 1, after it had been read over to him?---It is correct.

It is obvious at one stage, after it had been read over to him, after he had used the words "that is all I have to say", he then added about another few pages, in his own handwriting too?---That is correct.

And that was also read over to him?---Yes.

It was made in English, and as far as you are concerned, you are perfectly satisfied that he understood what he was saying?---He did.

MR. HARWOOD: No further questions.

ACCUSED NO. I: My Lord I have no question at the present moment to ask him, but I would ask My Lord to grant me time to study this statement and particularly to the fact that we are different in ourselves, it would be necessary

for me to sit over it and think over suitable questions, that I can ask the witness.

BY THE COURT: You see this witness doesn't say that what appears in that statement is true. All that he says is that you made that statement to him. That's all he says! ---In that case, I have no questions, to put to him.

ACCUSED NOS. 2 TO 16: No questions.

WITNESS IS EXCUSED.

It is decided not to lead evidence of the other Magistrate mentioned in Mr. Harwood's application, as they would not finish his evidence today. 10

ACCUSED NO. 5 TO COURT: In view of the fact that we are defending ourselves, and that we have no experience in legal procedure and argument, it is highly necessary that we should make certain requests.---That you should make?

It is necessary that we should be granted certain concessions by the Court. The first one being, that each of the 16 accused should be supplied with the indictment with its additions - we haven't got that.

BY MR. HARWOOD: Undertakes to try and let the accused have 20 copies of the indictment by tomorrow.

BY THE COURT TO ACCUSED NO. 5: Yes, that will be done.--- Certainly we request a copy of the act under which we are charged in English and Afrikaans.

You mean you would require only the particular section?---Please.

MR. HARWOOD undertakes to have copies made of Section 21, some time tomorrow.

ACCUSED NO. 5 TO COURT: And that we should be allowed, text books and stationery for the preparation of our case, 30 in the cells and wherever we are. If possible, we should

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