

THE WITNESS ic.6

We were impressed by his good demeanour. He was intelligent and well-spoken with a natural tendency to elaborate - for which he cannot be faulted.

He was well-informed on the ANC's activities and the movement of ANC personnel and recruits.

He was recalled on 22 September 1986 because of a conflict between the evidence given by him in this court and that given by him in the case of S v Mokehle. This conflict is set out in the judgment leading to his recall. The conflict was not in our view satisfactorily explained.

Where his evidence is relied on it is done with due caution.

THE WITNESS ic.7

This was a good witness. He gave his evidence calmly in a confident manner. He did not evade any questions and spoke out frankly. His demeanour in the witness-box was wholly satisfactory.

He gave the impression that he knew what he was talking about.

There is a contradiction in his evidence viz whether he found out on arriving at Vryburg that Busby Mohape had been arrested. This is the only criticism against him.

We do not find his evidence that he was told by the ANC to approach the ordinary UDF members should he require assistance so improbable that it has to be rejected, as counsel for the defence argued.

THE WITNESS ic.8

He testified positively and it was clear that he had knowledge of the facts to which he deposed. He was reasonably consistent. He was fair towards the accused. He did not attempt to discredit them unduly.

There were certain discrepancies in his version and he was caught out being untruthful on some aspects. We will deal with some examples hereunder. Yet he did impress us as a witness. His demeanour was impressive. He did not evade questions. He was clearly not pro-government or anti-accused. He has not changed his political spots and did not attempt to hide it.

We did not form the impression that he was being untruthful in his evidence. It is clear, however, that we have to be very careful when considering his evidence.

He was not prejudiced against the accused. He is a close personal friend of accused No 2.

1. He was at the time he gave evidence still detained by the police. The possibility that his long detention has affected his perception of events should not be ignored. At times he considered suicide.
2. He was threatened by a member of the police that serious consequences would follow should he not stick to the version contained in his statement.
3. He had been interrogated for lengthy periods and had also been assaulted. A threat by the police would to him be a real threat to be taken seriously.
4. He lied when he denied initially that he had been assaulted by the police and gave a nonsensical explanation for his dentures falling from his mouth.
5. He was warned as an accomplice under section 204 of the Criminal Procedure Act and had been told he would only be released should his evidence be satisfactory.
6. He contradicted himself on the contents of the tape of Freedom Radio he said accused No 2 played for him.
7. He confused the meetings of the VCA at which Curtis Nkondo allegedly proposed that whites be used to kill Whites.

8. He placed the VCA anti-election meeting in November 1983 in chief and in October 1983 in cross-examination.
9. At a stage of his cross-examination he did not remember having attended any meetings between November 1983 and 2 September 1984, whereas in chief he had mentioned several. He also forgot in cross-examination that Esau Raditsela had said "all hell is going to break loose in South Africa".

He does have a retentive memory for dates as is evidenced by the cross-examination on his marriage, divorce and children's birthdays - which does lessen the argument that he parrot-like studied a fictitious version.

10. He in chief incorrectly placed accused No 5 at the meeting of 19 February 1984, which mistake he readily conceded in cross-examination.
11. He says he is peace-loving yet he acts as a marshal in a march which has placards "Kill Mahlatsi and brothers" that set off after Esau's fighting talk.
12. In chief he put accused No 8 and accused No 15 on the stage in the church hall at the meeting on 3 September 1986 but in cross-examination he had no recollection of this.

13. He was contradicted by the sister of accused No 2, Anna Hlómoka, who says that only he came to their house, that they left at 6h30 and that accused No 2 came back alone at 12h30. She further testified that ic.8 confessed to having been tortured and said that he was very sorry.

Bearing in mind the above and that ic.8 has to be regarded as an accomplice when his evidence is weighed one has to have serious reservations about this witness.

THE WITNESS ic.9

This is a man of standing who holds a very senior position in a big corporation. He is a person who as a result of his occupation would be able to determine which portions of a speech are important. It is therefore to be expected that he would take note of and remember important aspects.

He gave his evidence in an assured way. He answered boldly and forthrightly.

He displayed such knowledge of detail that it is clear that he was in fact at that meeting.

No reason was advanced why he should give false evidence. He is not a police informer and not a member of the police force. He did not attempt to understate his friendship with certain policemen like warrant officer Moagi.

He was cross-examined at length and thoroughly and stood the test very well.

He was an impressive witness.

On material aspects in cross-examination his evidence corresponded with that of sergeant Koaho (and contradicted the defence case as put):

- (a) Though he was not led thereon in chief he gave a version materially similar to that of sergeant Koaho on the speech of accused No 2 and the opening by accused No 3.
- (b) That accused No 3 opened and entered the church and went out again and returned with accused No 16, No 1 and No 4.
- (c) That accused No 16 shouted Amandla in Nguni and not Matla in Sotho, though he did not speak in Nguni.
- (d) That there was no mention of resolutions of the previous meeting made at this meeting.



Much cross-examination was directed at his only attending one political meeting in his official capacity. This line of cross-examination is self-defeating. If he was an informer or a member of the security police one would have expected him to have attended more. In any event in the last couple of years he held positions where one would not regard attendance at those meetings as part of his duties, and we have no information on the incidence of political meetings in the Black townships prior to 1983.

One should not be unmindful of the fact that the presence of police at this meeting was probably known. The videos exhibited evidence that possible police presence is not necessarily an inhibiting factor.

There were certain discrepancies between his evidence and that of sergeant Koaho - of a minor nature, for example:

- whether they sat on the fourth row from the front or back;
- on some aspects of what speakers said;
- on whether ic.9 took notes;
- on the wording of the banner.

Should one have to choose between ic.9 and sergeant Koaho, the choice would be the former. There is, however, no difference between them on the material aspects.

The witness ic.9 was repetitively cross-examined at length on his occupation.

Counsel for the state when requesting that his evidence be heard in camera stated that this witness was a known political commentator in the Black community, a journalist for radio and TV. When questioned about this by the court before commencing his evidence, the witness ic.9 stated that he was not a commentator for the SABC either on TV or on the radio. He was merely one who gathers information for the SABC. His name was not mentioned in SABC reports. (27/1277-8).

The witness himself therefore had corrected any wrong impression counsel for the state may have conveyed to the court and that was done before the ruling on whether the witness ic.9 should give evidence in camera.

At the commencement of cross-examination the witness stated that what counsel for the state had said was not completely correct. (27/1289).

In cross-examination counsel for the defence asked the witness ic.9 about other political meetings attended by him as a reporter. The witness referred to the Basuto meeting held in Heidelberg by the chief minister of Qua-Qua. Counsel was not interested in that.

(28/1356). He wanted to know about meetings similar to the one of 19 August 1984 where political activists were present. The witness said he had not attended any in 1984 or 1983 as he had different duties at the SABC. He had often attended meetings as a reporter. Counsel then limited him to political meetings of political activists in the townships. These he had not attended. He had, however, privately during the time he was in Soweto attended political meetings. (28/1357, 1361).

He was later unjustly accused by counsel during cross-examination that he had falsely told the court that he was a well-known political commentator. (28/1358).

His evidence was further twisted and thrown back at him on the basis that he had only filed one report with the SABC and could therefore not be in their full-time employ (suggesting he was an informer). (28/1359-1360).

He stated clearly that the one report related to this particular meeting and that he was not a man in the field but that he did mainly journalistic office work (28/1360-1361). He gave full details of his curriculum, his work and his present position. (28/1362).

He gave a plausible reason for being at the meeting. He lives in the Vaal and therefore his senior editor had asked him to attend. He gave his name. (28/1364-1365).

There had not been much political activity prior to August 1984 on the township scene since November 1983 and even then local politics did not give rise to much interest. It is not strange that this is the first meeting of the political activist kind that he was asked to attend.

Counsel for the defence again reverted to counsel for the state's mention of the "leading political commentator", entirely ignoring the facts the witness had placed before court at the outset. (29/1384-1386).

The cross-examination further continued on the false premise of only one report having been filed (29/1386-1387) and the witness was falsely accused of being dishonest.

The criticism of this witness by the defence on the basis of the remark of the state counsel and the suggestion that he attended as an informer are unfounded.

The evidence of the witness ic.9 has the ring of truth in it. He is well-informed. For example he was cross-examined on his evidence that accused No 3 had referred to meetings with councillors and it was put to him that accused No 3 could not have said this as there had not been such meetings. (28/1336). The witness countered

that in fact there had been such meetings as he had heard it mentioned the week before 19 August 1984 at a meeting of the Lekoa town council.

What counsel put to the witness was incorrect. In fact accused No 3 had attended such a meeting on 16 August 1984 in Sharpeville as he later testified, presumably because exhs AAT.14, 15 and 16 could not be explained away. In this respect accused No 3 had given his counsel false instructions.

The witness ic.9 correctly stated who had introduced accused No 16 as speaker. He tells of the interpreter for No 16 who had to be replaced after an argument about the interpretation. (28/1349).

He was attacked in cross-examination when he stated that the letters on the banner were black and it was in fact put to him that they were red. (28/1334). Yet when Mrs Mokate testified for the defence she was positive the letters were blue.

Sergeant Koaho denied that accused No 1 had spoken of the Transkei. (25/1248). The witness ic.9 who testified later said that he did (28/1287) and gave a version of his origin. Had this been a fabricated version there would not have been this difference as Koaho would have primed the witness ic.9.

The defence criticised this witness for not producing his notes made at the time, either to major Kruger or to the court. His explanation that he was not asked about the existence of notes by major Kruger and that full notebooks are in the normal course of events destroyed after six months, is to us fully acceptable.

The emphasis by counsel on the notes is misplaced. They were not used by him for his statement to the police or to refresh his memory in court and had there been collusion between him and sergeant Koaho he could easily have stated he had made no notes at all, thereby avoiding a contradiction between them.

Counsel's submission about the non-production of the report to the SABC is answered in the same way. These reports are not retained. His explanation why it was not published is equally acceptable. SABC policy is not to publish incitement to violence - and obviously not to give prominence to those who do.

The witness said that accused No 2 spoke in Sotho and that there was no interpreter. He is probably mistaken. This is not an important matter. Accused No 2 also made a mistake in this respect. He told the court that the same interpreter who had interpreted for

accused No 16 from Sotho to Zulu/Xhosa interpreted his speech from Zulu to Sotho. Yet Msimanga who interpreted for accused No 16 says he never heard accused No 2 speak.

THE WITNESS ic.10

This witness was totally discredited on the involvement of  
accused No 20 in Tumahole.



COMMENTS ON THE WITNESS ic.11

This witness is intelligent and quite articulate. She answered the questions put directly without any attempt at evasion.

She cannot be faulted on her demeanour.

She was a good witness.

It should be borne in mind that she is an accomplice, although she was not warned as such. Her evidence will be treated with the required caution.

THE WITNESS ic.12

This was a good witness. He answered forthrightly and without hesitation and did not attempt to embellish.

His evidence is borne out by the video tapes exhs 11 and 28.

THE WITNESS ic.17

An elderly gentleman, ex-inspector of schools and now business man.

He was in fear of his life and that of his family and gave evidence in camera.

His supermarket had been burnt to the ground in 1984 and he had received anonymous threats that he and his family would be necklaced in the fortnight before he gave evidence.

His fears did not prove groundless as the morning after he commenced his evidence his shop was attacked by a mob and his child injured. A municipal policeman was necklaced.

Despite these fears and circumstances he gave his evidence graciously, unwaveringly and absolutely sincerely. We have the highest admiration for this man. There is no doubt about his honesty.

He chose not to make use of the interpreter and first gave his evidence in Afrikaans and later on in English. We are of the opinion that his English is better than his Afrikaans and that there was less likelihood of a misunderstanding when English was used though his Afrikaans is good.

There are some contradictions which the defence pointed out for example whether one Mabena attended a meeting before July 1984 or not; and if R18,00 rent was there discussed. There is a contradiction on whether bishop Tutu told him on the telephone that accused No 20 was going to Bloemfontein and would stop at Parys.

We deal with his daughter's evidence elsewhere.

THE WITNESS ic.18

A good witness prepared to make concessions where necessary.

THE WITNESS ic.19

Although tending to be a long-winded and sometimes dense witness we have no adverse comment on his demeanour.

We deal with criticisms by the defence.

1. This witness was criticised on the basis of a conflict between his version and exh AAQ.44 on whether the Leandra Action Committee wanted no council at all or re-elections for a council. It must be borne in mind that at a public meeting where the issue taken up is that the term of office has expired, it is easier to get rid of the incumbents by calling for their resignation so that re-elections can be held than calling for an end to the whole system of Black local authorities. The letter is not necessarily in conflict with his evidence on what he was told privately.
2. The apparent contradiction in his evidence on the purpose of the meeting of 28 October 1984 is of no moment. The meeting was in fact held and disrupted by the Leandra Action Committee. The apparent contradiction was never taken up with the witness.

3. The alleged contradiction on the context of the meeting where the Black Sash were present does not appear to be a contradiction and was not regarded as such by cross-examining counsel at the time.
  
4. The argument that his evidence about Nkabinde's threats outside the meeting of 28 October 1984 is unconvincing, is interesting, but the points should have been taken up with the witness. They were not. His evidence remained unchallenged.
  
5. The argument that the threat by Mayisa was invented on the spur of the moment was not put to the witness. In fact the cross-examiner left the evidence unchallenged, probably because it had the ring of truth about it.

THE WITNESS ic.20

This witness is not very bright. There is no adverse comment on his demeanour.



THE WITNESS ic.21

This was a good witness.

THE WITNESS ic.22

This witness was seriously injured when he was set alight in February 1986. He spent three months in hospital and still bears the scars of his injuries. He did not feel well physically while giving evidence.

Despite all this he stood up well to cross-examination and gave his answers forthrightly and convincingly.

He was a good witness.

THE WITNESS ic.23

An intelligent forthright witness who is clearly well versed in ANC and Marxist political philosophy and is quite articulate.

He made a very favourable impression on us. He was not seriously attacked in cross-examination.

THE WITNESS ic.24

A forthright witness who was in no way shaken in cross-examination. He created a favourable impression. He has an intimate knowledge of the ANC, having been an active cadre from 1977 to 1986. Apart from the usual political and military training he also was trained in the GDR and USSR. He is an intelligent man.

We bear in mind that he was warned as an accomplice in terms of section 204 of the Criminal Procedure Act when we evaluate his evidence.

THE WITNESS ic.25

This witness attended court while in the last stage of pregnancy and throughout her evidence was in considerable discomfort if not pain.

Despite this she gave her evidence unwaveringly. She was a satisfactory witness.

DOCTOR L.P.C. JANSEN

Dr. Jansen was cross-examined at great length. He impressed us with his patience and courtesy. He is clearly a master in his field. His evidence in chief and in cross-examination was presented in an intelligible way and throughout properly motivated. He was without hesitation prepared to concede where he had erred when this was pointed out to him.

He was an impressive witness.

A. JOKOZELA

A flamboyant councillor who attempts to impress with his attire.

On his demeanour as a witness we have no adverse comments.

He did not attempt to evade embarrassing questions and answered in an honest manner. He was a good witness.

## **DELMAS TREASON TRIAL 1985-1989**

### **PUBLISHER:**

*Publisher:*- Historical Papers, The University of the Witwatersrand

*Location:*- Johannesburg

©2009

### **LEGAL NOTICES:**

**Copyright Notice:** All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

**Disclaimer and Terms of Use:** Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of paper documents and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

### **DOCUMENT DETAILS:**

*Document ID:*- AK2117-K2117-L14-4

*Document Title:*- Witnesses in Camera Z184-212