

APPEALS  
EASTERN DISTRICTS

1965

RECORD - MAPOLISA, JOYCE

AD 1901 / 41.3

State v. Joyce Mapolisa.

EASTERN DISTRICTS APPEALS: RECORD MAPOLISA, JOYCE

Accused — JOYCE MAPOLISA (RC12/65)  
a widow age 48 yrs.

Trial at Addo — June 1965 — Before  
Magistrate Francis  
Defended by Adv. Martin.

### Charged

1. membership ANC (8.4.60 — 30.6.64)
2. contribute to salient suits
3. allowed use of premises
4. distributed pamphlets

Found guilty on all counts

### Sentenced

Count 1 — 27 months (had been in  
custody for 9 months)  
Counts 2, 3, 4 — 2 yrs (taken as 1  
for purposes of sentence).

### Evidence.

1. LIVINGSTONE GULWA
2. PHILIP MHLAWULI
3. HARRY GLANILE.

all believed by the Court.

The accused did not give evidence.

Appeal On sentence only. Dismissed on  
12/10/65 by Jenett J.P. and Wynne J.

25004  
CASE NO: RC.12/65.

DATE: 23-6-1965.

IN THE MAGISTRATE'S COURT - REGIONAL DIVISION - HELD AT ADDO.  
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BEFORE:

MR. L.P. FRANCIS.

THE STATE VERSUS:

JOYCE MAPOLISA.

CHARGE: (4 COUNTS)

CONTRAVENTIONS OF THE  
SUPPRESSION OF COMMUNISM ACT.

PLEA:

NOT GUILTY.

FOR THE STATE:

MR. C.C. KLACKERS.

FOR THE DEFENCE:

MR. J.D. MARTIN.

INTERPRETER:

MR. R. PHILLIPS.

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CONTRACTORS: LUBBE RECORDINGS (PROPRIETARY) LIMITED.

IN THE MAGISTRATE'S COURT-REGIONAL DIVISION-HELD AT ADDO.THE STATE VERSUS : JOYCE MAPOLISA.INTERPRETER READS CHARGE-SHEET.CHARGE: 4 COUNTS - CONTRAVENTIONS OF THE SUPPRESSION OF COMMUNISM ACT.ACCUSED PLEADS NOT GUILTY.EVIDENCE FOR THE STATE:LIVINGSTONE GULWA: DULY SWORN, STATES:EXAMINED BY THE STATE PROSECUTOR:

Livingstone, where do you reside? --- 33, Maduka Street, New Brighton Location, Port Elizabeth.

Do you know the organisation known as The African National Congress? --- Yes.

Did you join that organisation? --- Yes, I did.

When did you join the African National Congress? --- In December, 1960.

When you joined the organisation did you know that it had already been banned? --- I heard that the organisation was banned but at the time of its banning and when I heard that I was not yet a member.

How did it come about that you joined the African National Congress in December, 1960? --- One Campbell Ndlebe came to me at my house. He informed me of the banning of the organisation and told me that it was going to operate under a new system.

As a result of what he told you did you join the organisation? --- I did.

After you joined the organisation did you attend any meetings of the African National Congress? --- In May, 1961 I attended a meeting.

Was that the first meeting you attended? --- Yes, that was/.....

was my first meeting that I attended.

Where did you attend that meeting? --- It was held at Alfred Noboya's house.

Where did he reside? --- I know his house sir. I do not know the number. It is in Tabata Street.

Is that also in New Brighton? --- Yes sir.

How did you come to attend this meeting there? How did you know about this meeting? --- On a Sunday Campbell Ndlebe came to me and told me about a meeting that was to be held at Alfred Noboya's place the next day.

Did you then go to Alfred Noboya's house the next day?

--- Yes, I went to Alfred Noboya's house.

About what time was it when you went there? --- It was on a Monday night at about seven o'clock.

You say there was a meeting there? --- Yes.

Was the meeting held inside the house, outside or where?

--- Inside the house.

Were there other people gathered there inside the house?

--- Yes sir.

Did you know any of these people? --- Yes, I knew these people.

Can you remember any of the persons you saw there?

--- Yes.

Whom do you remember having seen there? --- Campbell Ndlebe; Alfred Noboya; Philip Mhlawuli; Kleinbooi Ncongolo; Richard Zicwele; Aron Baleka; a certain Booi, I cannot remember his first name; Mantla; William Bala; Barrington Maqungu; Albert Sotatshi; Mrs. Mapolisa and myself.

This Mrs. Mapolisa, who is that? --- The accused.

Did you then already know the accused? --- Yes sir, I already knew her.

Do you know when you first met the accused and got to know her? --- She frequently visited my house as she was friendly with my wife.

Do/.....

Do you know where the accused stays? --- I know the street and where the house is situated but I do not know the number.

In what street does she stay? --- Sopasi Street.

Do you know with whom she was staying in that house?

--- With her children. I knew that her husband was dead.

Besides her children and herself are there any other adults staying in that house? --- Not that I know of sir.

To return then to Noboya's house where this meeting was held - was there a chairman there? --- Mhlawuli was the chairman sir. But when Peter arrived at the meeting Mhlawuli handed over to him.

BY THE COURT: Peter who? --- That was his surname, Peter sir.

PROSECUTOR: Can you remember what happened at this meeting?

--- We were informed of the fact that the African National Congress was going to operate underground. We were shown a receipt-book which was going to be used. On this receipt appeared the emblem of a bird.

BY THE COURT: Who showed him that? --- Peter sir.

He doesn't know this Peter's first name? --- No, I do not know his first name sir.

Was he a stranger to him? --- He was a stranger to me then sir. I did hear that he was the Prime Steward sir.

PROSECUTOR: Yes? --- We were told that we were to pay a subscription of 20c monthly for which we would be issued a receipt. We were told that members of the African National Congress office would be chosen but we would not know who they are. It was also said those who have the 20c subscription available could pay there and then if they had the money.

Were there any persons who paid? --- Yes, some of us paid our subscription then sir.

To whom was the money paid? --- We paid the money to Noboya.

Do you know any of the persons who paid, or can you  
remember/.....

remember any of the persons who paid? --- Myself and the accused and a number of others paid.

And in return, for the money you paid over did you receive anything? --- Yes, a receipt that was torn from this receipt-book was handed to us.

Who wrote out the receipt? --- The Prime Steward who explained how we were to operate in future.

Did anything else happen at the meeting? --- It was at that meeting that Mhlawuli was removed from the office of Chief Steward and made a Cell Steward and Noboya was appointed Chief Steward in Mhlawuli's place.

Who made that alteration or change? --- The Prime Steward, Peter.

Did he give any explanation for the change? --- He said that the higher office was not satisfied with Mhlawuli's work.

Did he say in what way the higher office was not satisfied? --- He said that the money did not tally with the receipts that had been issued.

Did anything else happen? --- Myself, Sotatshi and Maqungu were appointed Cell Stewards.

By whom? --- We were appointed by Peter.

BY THE COURT: That is the one whom he knows as the Prime Steward? --- Yes sir.

PROSECUTOR: Did anything else happen? --- He informed us that this area had been divided up into zones and that each zone consisted of seven streets.

Did he say whether you had any particular zone or what your position was? --- Our area was to be known as Zone G.

Anything else? --- He went on to say this - each street would have an office-bearer in charge. If the street happened to be an exceptionally long street then there would be two office-bearers in charge.

Did he say what their positions were, those office-bearers in charge of the streets? --- I as/.....

--- I as Cell Steward was in charge of my street, Maduka Street.

Yes, was anything else said at this meeting? --- I cannot remember anything else that was said.

After this did you attend any other meetings?

--- Another meeting in May of 1961.

BY THE COURT: In May of 1961?

INTERPRETER: Yes sir, that is what the witness said.

BY THE COURT: The same month as this meeting? --- Yes, the same month sir.

How long after the first one? --- A week.

PROSECUTOR: Where was that? --- It was held in the house of the accused, Mrs. Mapolisa, in Sopasi Street.

Were there people there? --- Yes sir.

Who was there? --- The same people that I mentioned in connection with the first meeting.

The accused in person was she there? --- Yes sir.

BY THE COURT: Was the Prime Steward also there? --- No, the Prime Steward was not present at this meeting sir.

PROSECUTOR: Who was the chairman at this meeting?

--- Alfred Noboya.

Did anyone speak at the meeting? --- Yes, the chairman addressed the meeting sir.

Can you remember anything he said? --- He said that violence must be made use of in future, and whenever we left our houses to go to a meeting we must always go armed.

Did he say why you had to go armed? --- He said that the police were patrolling frequently.

So in what way did he associate your going armed with the police? --- These arms of ours were to be used against the police in the event of any interference. So that they could not prevent us from going where we had to go.

Was there anything else? --- I do not remember anything else about that meeting because this that I have just

described/.....



described were the only important facts in connection with that meeting.

Did you attend any other meetings? --- I remember a meeting held at Aron Baleka's house.

When was that? --- I think that meeting was in 1962. I am not sure of the month during which it was held.

Where did Aron Baleka stay? --- In Tabata Street.

Who was there at that meeting? --- Jackson Booi.

Also .. Alfred Noboya; Aron Baleka; Philip Malawuli; Kleinbooi Ncongo; William Bala; Albert Sotatshi; Barrington Maqungu; Mantla; Madyo; Richard Zicwele and myself.

Anybody else? --- The accused, Mrs. Mabolisa. That is all I can remember sir at the moment.

Was there a chairman at this meeting? --- Yes, Alfred Noboya was.

Did anyone speak at the meeting? --- Yes sir, the chairman, Alfred Noboya addressed this meeting.

Can you remember anything of what he said? --- He told us about the formation of a new wing of the African National Congress known as "Umkonto We Sizwe". He told us that tea-parties must be held. The funds raised at these tea-parties were to purchase firearms and weapons, and hack-saws for the severing of electric cables and everything belonging to the government must be destroyed.

Did he say by whom that would be done? --- He said that these things would be carried around by us, the Cell Stewards.

BY THE COURT: What things? --- The severing of power lines...

PROSECUTOR: Apart from saying that this new wing of "Umkonto We Sizwe" had been formed did he tell you anything more about that? --- He did not say anything more about it, he just said that we must make other plans to fight the government.

Other plans in what sense? Plans other than what?

--- The/.....

--- The strikes and boycotts had been unsuccessful and that was one of the means by which we were to fight the government.

Was anything else said? --- I cannot remember anything else that was said at that meeting. I do remember that subscriptions were paid at that meeting.

After that was there any other meeting you had attended?

--- I remember a meeting in 1963 sir. I think it was in February of 1963. I do remember that it was in the early part of the year.

Where was that? --- It was in the house of Jackson Booi.

Who was there? --- The same people that I have mentioned in connection with the other meeting.

Was there a chairman at that meeting? --- Yes, Alfred Noboya was.

Did anyone speak at the meeting? --- Yes, Alfred Noboya addressed the meeting.

Do you remember what he said? --- We started off by paying our subscriptions. He said in future when going to meetings we must go in pairs, we must not go in groups. He informed us that some of our comrades in Nogongo Street, which was in Zone H, had been arrested.

Did he say under what circumstances or how this had come about? --- He told us that our comrades had been arrested inside a house while attending a meeting.

Did he say anything else? --- He also said that a guard would have to be posted outside to keep watch for the police, and that meetings were not to take longer than an hour.

Anything else? --- I cannot remember anything else sir.

Were there any other meetings you can remember?

--- I cannot remember any other meetings sir.

These meetings that you have told the Court about were they the only meetings you had attended? --- No, there were other/.....

other meetings held that I do not remember the details of. They were held in the houses of the other Cell Stewards.

When were they held? --- They were held at eight o'clock on Monday nights sir.

Where was the last meeting of those you attended held? --- The last meeting I attended was this meeting at Booi's place in 1963 sir.

Do you know whether there were any meetings held after that? --- Not that I know of because at that time many people were arrested.

BY THE COURT: Was he too arrested? --- I was arrested during last year sir.

S.P: After that meeting at Booi's house which you say was held in 1963 did you have anything further to do with the African National Congress? --- No sir, I did not have any further interest in it.

These meetings on Monday nights which you say were held in the houses of the Cell Stewards, what was done at these meetings - what happened there? --- Matters concerning the African National Congress were discussed. One of the subjects discussed was that we wanted equal wages - what I mean by equal wages is in comparison with the White people.

Anything else? --- And that the Pass Laws must be done away with so that we could have freedom of travel.

These matters discussed at these meetings, in what way were they discussed, did everybody take part in the discussions or what was the position? --- These matters were always brought to our attention by the chairman and he would then ask the members present if they supported him or if there were any questions. He was always supported by the members.

Apart from the discussions was anything else done?

--- We did nothing else at these meetings. We also held tea-parties and concerts.

When/...

When did you hold the tea-parties? --- They were held on Saturdays sir. They would invariably start at 9.00 a.m.

And the concerts? --- They were held on Saturday nights.

Where were they held? --- In the Nobantu Hall, New Brighton location.

What was the object of these tea-parties and concerts?

--- To raise funds for the African National Congress. These funds were to pay for legal representation. What I mean by legal representation is, in the event of any African National Congress member being arrested.

Where were these tea-parties to be held? --- They were held in the houses of the Cell Stewards.

Who attended the tea-parties? --- We, the Cell Stewards attended the tea-parties and members of the public - ordinary people.

Did the public know what these tea-parties were in aid of? What they were held for? --- Members of the public knew that these tea-parties were organised by the African National Congress.

Were there many of these tea-parties held? --- They were held every third Saturday.

How did you know when these tea-parties were to be?

--- Alfred Noboya would inform us at a Monday night meeting that there was to be a tea-party the following week-end.

How did you know where the next Monday night meeting would be? --- When the Monday night meetings adjourned we were always told where the following meeting would be held.

Did you attend all the meetings on Monday nights?

--- There were occasions that I had to work overtime at work and missed meetings.

If you missed a meeting how did you know where the following meeting would be? --- I would go to my nearest comrade and check with him. I would also report to him if I was/....

was unable to attend a meeting. The instructions given by the Chief Steward were to the effect that any Cell Steward being unable to attend a meeting must report the matter.

And you say these meetings were held in the houses of the Cell Stewards? --- Yes sir, that is correct.

Were there any Cell Stewards in Zone G who did not have their own houses? --- The only Cell Steward of our zone who did not have his own house was Barrington Maqungu.

The accused who lived in Sopasi Street, in what zone would she reside? --- Zone G.

What was her position? --- She had her own house.

Did you ever attend meetings in her house? --- Yes sir, meetings were held in her house.

What meetings were these that were held in her house?  
--- African National Congress meetings.

When a meeting was held in her house where would the accused be? --- Present at the meeting.

Was a meeting ever held in her house when she wasn't there? --- No meeting was ever held in her house in her absence sir.

You have told the Court that subscriptions were paid. How regularly were these subscriptions paid? --- Twenty cents had to be paid at the end of every month sir.

Did you pay your subscriptions regularly? --- Yes sir, regularly at the end of the month.

To whom did you pay your subscription money? --- I paid my subscription at a meeting to the Chief Steward.

And the other Cell Stewards who attended these meetings, do you know whether they paid subscriptions? --- Yes, they also subscribed.

Where did they pay their subscriptions? --- Also at meetings.

Whom did they pay their subscriptions to? --- We all paid our subscriptions to the Chief Steward.

How do you know the other people also paid? --- These/...

--- These rooms were invariably small. I could see them.

Apart from attending meetings, holding tea-parties and paying subscriptions did you do anything else in connection with the African National Congress? --- We took part in the distribution of pamphlets.

Did you distribute pamphlets? --- Yes sir, I did.

On how many occasions? --- I cannot remember all the occasions but I can remember about three.

When was the first occasion you can remember? --- The first one was in May of 1961.

Where did you get that one from? --- From the Chief Steward.

Where? --- He summoned us to his house when the pamphlets were available. We would usually get a message at about 7.00 p.m. that we were to report to his house between ten and eleven p.m.

When you received the message did you go to his house?

--- Yes sir, I did.

Were you the only person there? --- No, when I arrived there were some people already there.

Then what happened? --- We were handed pamphlets for distribution by the Chief Steward.

Who is the "we" the pamphlets were handed to by the Chief Steward? --- There were five of us who liked distributing pamphlets.

Who? --- Myself; Philip Mhlawuli; Jackson Booi; Aron Baleka and the accused, Mrs. Mapolisa.

BY THE COURT: Did only the five of them distribute pamphlets?

--- Yes sir, it was only the five of us.

PROSECUTOR: Were you told anything when you were handed the pamphlets? --- We were told to push the pamphlets through underneath each door. In the event of the front gate being locked a pamphlet had to be placed at the gate with a stone on top of it.

Can/....

Can you tell the Court anything about the pamphlet itself? --- It depended on the Cell Steward himself. If he wanted to read one he would take one and read it.

BY THE COURT: Yes but on this first occasion, in May, 1961. The first time he has spoken about, did he read the pamphlet or was he told anything about the pamphlet? --- I read it myself sir.

PROSECUTOR: Were you told where these pamphlets emanated from or what they related to? --- All we were told was that he got them from the Prime Steward. And that they referred to a strike that was to take place the following week.

Were these pamphlets then distributed? --- Yes sir, they were distributed.

Did you do anything after the available supply was exhausted? --- When we completed the available supply we had to report back to the Chief Steward for the purpose of checking to see if we all returned.

You say you read this pamphlet? --- Yes sir, I did.

Can you remember what you read? --- I remember it referred to a three-day strike. These three days were the 29th, 30th and 31st May.

Can you remember the details of the pamphlets?

--- People were to stay home and not go to work.

And what did the pamphlet look like? --- It was a small white piece of paper. The printing was in black.

What did it say? --- It was typewritten.

Will you have a look at this exhibit? --- It was exactly like this, exhibit A.

What does it refer to? --- It refers to the three-day strike sir. It says that people must not go to work, and that is the decision of the oppressed people.

Does it say when you must not go to work? --- It says here that on the 29th, 30th and 31st nobody must go to work. Under no circumstances must anybody do any work.

Is there any other occasion you remember distributing pamphlets? --- I remember the pamphlet referring to the Day of Mourning in June of 1961 also.

Where did you get that from? --- From the Chief Steward Noboya.

What did you do with that one? --- The five of us whom I have mentioned distributed that one. We distributed this one in the same manner as the other.

What did you do after that? --- We returned to the Chief Steward.

Did you read that one? --- Yes sir, I did. It referred to The Day of Mourning.

When is that Day of Mourning? --- The Day of Mourning was the 26th June ... every year.

Can you remember anything that was said in this pamphlet? --- It has just slipped my memory but I do remember the words: "Remember the 26th day of June" were written on it.

Do you know whether this pamphlet contained any instructions in regard to the 26th June? --- That small fires were to be built. We were to make use of candle-light and we were not to buy from any shops. That is what I can remember about this pamphlet.

How did that one look in comparison with the previous one? --- The shape of the page, the second one, was longer than the first one. Also the printing was black in colour.

Are there any other pamphlets you can recall?

--- There was one in May, 1963 sir which referred to "Umkonto We Sizwe".

NO FURTHER QUESTIONS BY STATE PROSECUTOR.

CROSS-EXAMINED BY MR. MARTIN:

When were you arrested? --- In May of 1964.

When were you released? --- At the end of July.

Do you know why you were released? --- I do not know whether I am fully released or not sir. I was, however, released from custody after I made a statement. Do/.....



Do you hope that if you give evidence against the accused you will not be prosecuted yourself? --- I do not know whether I will be prosecuted or not sir.

Do you hope that you won't be prosecuted? --- I do not hope that sir.

Do you hope then that you will be prosecuted? --- As I say, I do not know whether I will be prosecuted or not.

You have said that you do not hope that you will not be prosecuted - I want to know whether that means that you hope that you will be prosecuted? --- I have no hope either way. As I have said, I do not know whether I will be prosecuted or not.

Now apart from the five of you who had assisted in the distribution of pamphlets was there anybody else who on any other occasion helped you to distribute pamphlets?

--- Nobody assisted us. If one of the five was absent the Chief Steward himself would fill the vacancy.

Did the Chief Steward not ordinarily assist in the distribution of pamphlets? --- No.

You told us that you were summoned to his house and that you were told to be there between ten and eleven o'clock at night. Is that so? --- Yes sir, that was when pamphlets were available.

Now when you went to his house did you already find the other four there or did they arrive later or what was the position - on each occasion? --- On some occasions I was the first to arrive and on other occasions some would arrive before me and others after me.

Did it ever happen that you arrived at ten o'clock and that the others didn't arrive until eleven o'clock?

--- It depended on the message received whether we had to be there at ten o'clock or quarter past ten. But usually we had finished the distribution of pamphlets by eleven o'clock.

Now/.....

Now on the first occasion that you have told us about you said that you were told that you must be there between ten o'clock and eleven o'clock. --- That is correct.

What time did you arrive? --- On the first occasion I arrived at ten o'clock.

Who was the last one to arrive? --- I cannot remember. But when distribution took place all five of us were present.

Do you know what time the person who was last to arrive came on the scene? --- None of us ever looked on a watch to see what time each one arrived. I can only say it was before eleven o'clock.

And did you simply sit around and wait until everybody had arrived before you went off? --- Yes, we waited until everybody had arrived.

Now if you were the first to finish distributing pamphlets and you went back to the Chief Steward's house and reported to him did he simply dismiss you or did you have to wait for all the others to come back? --- We never separated from each other. All five of us would go down the same street and would all return at the same time.

Now you say that you joined the A.N.C. in December, 1960? --- That is correct.

And you said that Campbell Ndlebe told you about the Congress? --- Yes.

Did you speak to him or anybody else about the Congress between December, 1960 and May, 1961? --- Between December, 1960 and May, 1961 before I became a Cell Steward I did pay my subscriptions and that was all. There were no receipts available at the time.

Did you ask Campbell why no meetings were being held? --- He told me that the organisation had been banned.

Now you said that this first meeting was on a Monday at 7.00 p.m? --- That is correct.

Thereafter/.....

Thereafter were meetings always held on a Monday night? --- Correct.

At what time were they held? --- At 8.00 p.m.

So the starting time was different from the time of the first meeting? --- The reason for the difference in starting times was because the Prime Steward was to be present at that meeting and was to explain to us about the receipt-books which were to be used.

Was it only that one meeting that was held at seven o'clock? --- That was the only one that I know of.

Did the Prime Steward attend any of your other meetings? --- No, he did not.

Did anybody else attend any of your other meetings, other than regular members of your zone? --- No sir, not that I know of or ever heard of.

Did you attend one meeting at the house of the accused or did you attend more than one meeting at her house?

--- I remember attending meetings in her house on three occasions.

You said that you knew her before you became a member of the Congress? --- Yes sir, I did.

For how long before you joined? --- If I remember correctly I have known her since 1956.

How did you get to know her? --- As I have already said, she was friendly with my wife and frequently visited my wife at my house.

Do you know how it was that she became friendly with your wife? --- I am a working man, I don't know.

Do you know how many children she has? --- I do not know her whole family, I know three of her sons. One of her sons was stabbed to death.

How many people does she have living with her?

--- I do not know. I do know, however, it is only her children.

You/.....

You say you remember her paying subscriptions at that first meeting? --- Yes.

Do you have any special reason for remembering her paying subscription? --- There is no reason sir.

Do you remember seeing her pay at any other meeting? --- I remember a meeting at Baleka's house where the accused paid her subscription.

Do you remember seeing her pay on that occasion? --- Yes sir, I could see everybody when they were paying their subscriptions.

Were you told what had to happen to membership cards which had been issued before the banning of the A.N.C?

--- I do remember it was said that those membership cards must be burnt.

What was to appear on the receipts which were issued?

--- There was the emblem of a bird on the wing.

But what was written on the receipt? --- The date, the number of the house and the code number of the street.

Do you know what the code number of your street was?

--- P.3/1.

What street did you stay in? --- Maduka Street.

And the accused you say stayed in Sopasi Street?

--- Yes.

What was the code number of that street, do you know?

--- I do not know the code number of the Cell Steward in charge of that street.

Who was the Cell Steward in charge of that street?

--- Jackson Booi.

Did he also live in that street? --- No, he lived in Tabata Street.

Was the accused in charge of any street? --- She did assist Booi in Tabata Street. I beg your pardon, in Sopasi Street.

Did women play a lesser role in your zone of the

organisation/.....

organisation than the men or did they play the same role?

--- The women did play a lesser role, but the reason why the accused was always at our meetings was because she was in charge of the refreshments and the liquor department for these tea-parties.

BY THE COURT: They didn't serve tea at these tea-parties, they served liquor? --- No tea was sold your Worship, only liquor.

Tell him that he is the first witness who has ever admitted it to me in Court after a matter of some fifteen years!

BY MR. MARTIN: When you say that women generally played a lesser role what do you mean by it? --- Their duties were to sell refreshments, fruit etc.

It was not expected of them to do the work of a man - the blowing up of pylons or anything like that? --- That was not expected of them.

MR. MARTIN REQUESTS COURT'S LEAVE TO CONSULT WITH ACCUSED.

NO FURTHER QUESTIONS BY MR. MARTIN.

NO RE-EXAMINATION BY STATE PROSECUTOR.

CASE REMANDED TO 24-6-1965.

HEARING RESUMED: 24-6-1965: APPEARANCES AS BEFORE.

PHILIP MHLAWULI: DULY SWORN, STATES:

EXAMINED BY THE STATE PROSECUTOR:

Where do you reside? --- 195, Tabata Street, New Brighton, Port Elizabeth.

Do you know the organisation the African National Congress? --- Very well.

Did you ever join the African National Congress?

--- Yes.

When did you join the African National Congress?

--- In 1952.

Where did you join? --- In New Brighton.

Where/.....

Where in New Brighton? --- I joined the African National Congress in my house in Tabata Street.

Did you later hold any post in the organisation?

--- Yes, I held the post of cell steward in the African National Congress.

Did you later hold a higher post than that? --- I was later appointed to the post of Chief Steward.

When were you appointed to the post of Chief Steward?

--- If I remember correctly it was in 1958.

Do you know that the African National Congress was banned? --- Yes.

Do you know when that was? --- April, 1960.

After the banning of the African National Congress did you remain a member of the organisation? --- Yes.

Did you still hold the post of Chief Steward?

--- Yes.

Did you attend any meetings of the organisation after the banning? --- Yes.

Can you remember any of those meetings you attended?

--- Yes.

When was the first one you remember attending?

--- I attended very many meetings of the African National Congress. The first one I can remember was in October, 1960.

Where did you attend that? --- In my house, in Tabata Street.

Were there other people at this meeting? --- Yes.

Did you know any of the people who were there? --- Yes.

Can you remember any of the persons who were there?

--- Yes.

Whom do you remember? --- Myself, Gerald Peter; Alfred Noboya; Ncongolo; Campbell Ndlebe; Aron Baleka; William Bala; Richard Zidwele; Mrs. Mapolisa; Joyce Mapolisa, that is the accused; Johnson Madyo. Those are the ones that I remember at that meeting.

Since/.....

Since when have you known the accused? --- A long time. Did you know her prior to that meeting in October, 1960? --- I had known her for a long time prior to this meeting.

Do you know where the accused stays? --- Yes sir. Where does she stay? --- 27, Sopasi Street, New Brighton location, Port Elizabeth.

Is the accused married? --- She is a widow now. Her husband died.

And do you know with whom she stays at 27 Sopasi Street? --- With her children.

Apart from her children do you know whether anyone else stays there with her? --- No adults live there.

At this meeting in October, 1960 in your house, was there a chairman? --- I was the chairman.

Did anyone speak at the meeting? --- I opened the meeting and then handed the meeting over to Gerald Peter who was a member of a higher office.

Can you remember anything of what Gerald Peter said? --- Parts of it sir.

What can you remember? --- He said we must remember that the organisation was banned but the organisation was not prepared to leave it at that, the organisation was going to continue operating. There was to be a new system introduced and the organisation was going to operate underground. And that we were to recruit ordinary members for the organisation. He did not describe this new system at that meeting. That was all. He did add that he would return at a later date and explain the new system to us.

Any other meeting you can remember after that? --- The next meeting I can remember was held in May of 1961.

Where was that held? --- It was held in Alfred Noboya's house.

Where did he reside? --- 143, Tabata Street, New Brighton.

What/.....

What time of day was this meeting held? --- This meeting was held rather early. It was at a quarter to seven or seven o'clock. About that time.

Was that a.m. or p.m.? --- It was p.m.

Where did the people gather for this meeting? --- In the front room of the house.

Did you know any of the people who attended the meeting?

--- Yes, very well.

Who was at this meeting? --- All of those I have mentioned in connection with the first meeting were present, including Gerald Peter. And there were three other men.

Who? --- Livingstone Gulwa; Albert Sotatshi and Barrington Maqungu.

Can you remember what happened at this meeting?

--- At this meeting this new system of operation was explained to us.

Who explained it to you? --- I opened this meeting. When I had already opened the meeting Gerald Peter arrived and I then handed the meeting over to him.

What did Gerald Peter do then? --- He started off by telling us that our old membership cards must be burnt. That in future members were going to be issued with receipts. He explained that each member would have to subscribe 20c monthly. He explained this new system of operation to us and after that he said there is to be a change in your Chief Steward. I was removed from the office of Chief Steward and Noboya was appointed in my place.

Was any explanation given for this change of Chief Stewardship? --- He did explain that there was some discrepancy in the money that I was to have handed to the higher office.

Apart from the appointment of Noboya as Chief Steward were there any other appointments or anything that happened at the meeting?

--- These/.....



--- These three men that I mentioned last were appointed to the posts of Cell Stewards. That is Livingstone Gulwa, Albert Sotatshi and Barrington Maqungu.

And you yourself, after having been removed from the post of Chief Steward what were you to be? --- I was told that I would be a Cell Steward from then on.

Did anything else happen at the meeting, or was anything else said that you can remember? --- He produced a receipt-book and showed us the receipts. All of us present were told to pay our subscription, which we did. That we were to do before recruiting any other members.

Do you know whether the accused paid her subscription at that meeting? --- Yes sir, she did. I had not yet vacated my chair at the table. I was still seated at the table at the time.

To whom was the money paid? --- It was paid to Gerald Peter in my presence. I was sitting with Peter at the table.

After that, is there any other meeting you can remember? --- If I remember correctly in that same month of May there was a meeting held presided over by Noboya.

Where was that held? --- It was held in the house of the accused in Sopasi Street.

Who was there at that meeting? --- All of the people that I have mentioned before were present at this meeting. By that time all members knew that if they were unable to attend a meeting they had to report the matter.

Was Gerald Peter also at this meeting? --- He was the only one not present.

What happened at this meeting? --- The Chief Steward said that in his position as Chief Steward he was entrusting us with making every effort to raise money and to recruit new members. And that we were to attend such functions as tea-parties and concerts. I cannot remember what else was said sir.

During/.....

During your time as Chief Steward, do you know what the policy of the African National Congress was? --- Very well sir.

What was it while you were Chief Steward? --- We .. the policy of the African National Congress was to obtain the freedom of the Bantu people by peaceful means.

Do you know whether that remained the policy throughout? --- No, there was a change in policy sir.

Do you know when that change in policy came about?

--- It was during 1961 that the policy was changed to one of violence.

How did you know of the change of policy to one of violence? --- At this meeting at the house of the accused the Chief Steward explained this policy to us. He also added that anybody not wanting to work for the organisation would be dealt with, because we would not know on which side that person may be on.

Did you attend any other meeting you can remember?

--- Yes sir in May, 1962, but there were meetings held in between, every Monday.

This meeting in May, 1962 was held in the house of Aron Baleka.

Who was there? --- All the members of this zone excluding Gerald Peter.

Does that include the accused? --- Yes sir, she was present.

What happened at this meeting? --- He said that the organisation ...

BY THE COURT: Who? Who said .. ? --- Alfred Noboya sir. He said that the organisation had taken another step. He said a new committee had been formed, known as "Umkonto We Sizwe". He said the members of "Umkonto We Sizwe" would be selected from amongst us but that they would be unknown to others. He said that funds must be raised because this  
new/.....

new section would need plenty of things, such as weapons. He said that in the past the funds that had been raised had been used for the cost of legal representation and that in future the funds would be used for the benefit of this new branch. He said that when Cell Stewards attended meetings in future they must fully realise that they were going to a meeting and that every man must arm himself when on his way to a meeting.

S.P: Did you attend further meetings after this one? --- Yes there was another one sir. It was held in February of 1963.

Where was it held? --- Also at the house of Aron Baleka. I beg your pardon your Worship, I am mistaken there. I mean at the house of Jackson Booi.

What happened there - who was present?

BY THE COURT: Who was present? --- All the members under our Chief Steward.

S.P: And what happened there? --- The Chief Steward informed us that in future we must be extremely careful in connection with these meetings. He said that people when going to meetings must approach the particular house from different directions because the previous week a number of people had been arrested in Nogongo Street at a meeting. And that there must be no delay in connection with these meetings. The meeting must be held quickly and closed.

Anything else? --- I cannot remember anything else sir.

Now, as at this meeting in February, 1963 was Noboya still the Chief Steward? --- Yes sir. The last meeting that I can remember, it was after the Chief Steward Noboya had been arrested. If I remember correctly that was in August, 1963.

COURT: Which, the meeting or Noboya's arrest? --- The meeting was held in August, 1963 after Noboya's arrest.

S.P: Where was that one held? --- In the house of Aron Baleka.

Who was there? --- There were only very few of us because a number of people were being arrested at the time.

Can/.....

Can you remember any of the people who were there?

--- Myself; Aron Baleka; Albert Sotatshi; Livingstone Gulwa; Barrington Maqungu. The accused was not present at this meeting. It was at this meeting that Baleka explained to us that ...

COURT: I don't want to know what Baleka explained to them at that meeting; I don't think it is admissible Mr. Prosecutor. --- As the Court pleases.

PROSECUTOR: Now, you said earlier on that in between meetings were held - I don't remember whether you said when they were held - when were these meetings held that you said were held in between? --- On Monday nights sir.

Where were they held? --- These meetings were held in the houses of all the office-bearers, starting from the Chief Steward.

Who are the people who attended those meetings?

--- The Cell Stewards.

The Cell Stewards of what? --- Of the African National Congress in New Brighton.

Any special section of New Brighton? --- Yes sir, Zone G.

What did Zone G consist of? --- Seven streets.

Can you remember what those streets were? --- Yes sir, all of them. Maduka; Maqanda; Tabata; Hlawula; Sopasi; Nogongo and Jawa.

As a resident of Sopasi Street was the accused then in Zone G? --- Yes, in Zone G.

What was the accused's position in Zone G? --- She was an office-bearer. Also a Cell Steward - a Cell Stewardess.

Were meetings also held in her house? --- Yes sir.

And apart from the one which you have already told the Court about did you attend any others in her house?

--- Yes, there were others.

What meetings were these that were held in her house?

--- African/.....

--- African National Congress meetings.

At the time when the meeting was held in the house of the accused where would the accused be? --- Present.

Was a meeting ever held in her house in her absence?

--- No, a meeting could not be held in her house .. in the house of a member who is absent.

Where were the accused's children when the meeting was held? --- In the other room.

And at these meetings of Cell Stewards on Monday nights what was done there? --- Subscriptions were paid. Any new instructions that had come from a higher office were given.

What else? --- And any criticism by the Chief Steward in connection with Cell Stewards who did not perform their duties properly.

Were there any discussions? --- Yes, there were discussions in connection with freedom. That we must be patient and we would get it.

These subscriptions to whom were they paid? --- To the Chief Steward.

And in return for the subscription, did the person who paid receive anything? --- A receipt. And a copy of the receipt would remain in the book.

What did the receipt look like - what was on it?

--- There was the emblem of what resembled a bird on the receipt. There was a code number written on the receipt. In Zone G the code number was P.... the first street in the zone, the code number was P.1/1.

What was the code number of your street? --- The code number of my street was P.1/3.

Apart from the code number what else was written on the receipt? --- The amount of 20c and one's house number. The date, month and the year.

Were any names written on these receipts?

--- Instructions/....

--- Instructions were that no names were to appear on the receipts, but some people did write names on the receipts.

Were there any Cell Stewards in Zone G who did not pay their subscription moneys? --- All the office-bearers of Zone G paid.

You say you were told to attend tea-parties and concerts? --- Yes sir.

Were tea-parties held? --- Yes, they were held.

Where were tea-parties held? --- We selected the houses that had sufficient space. That was amongst the houses of the office-bearers only.

When did you hold these tea-parties? --- On Saturday nights.

And concerts? Did you hold concerts? --- Yes sir, we attended concerts.

Where did you hold the concerts? --- In the Nobantu Hall.

Where is that, in Port Elizabeth? --- In New Brighton Location, Port Elizabeth.

Now apart from your attendance of meetings, concerts and tea-parties and so forth, was there anything else you did in connection with the African National Congress?

--- Yes, we took part in the distribution of pamphlets.

Did you distribute pamphlets? --- Yes sir, frequently.

Can you remember any occasion when you distributed pamphlets? --- Yes, there is an occasion in May, 1961 that I recall.

Where did you get the pamphlets that you distributed on that occasion? --- That pamphlet was handed to us by Noboya for distribution.

Where? --- I received a message that I was to report at his house at 10 or 10.30 p.m. That there was a certain job that had to be done.

Did you then go to his house? --- Yes.      What/.....

What happened at his house on that occasion in May, 1961? --- After we had all arrived there the Chief Steward selected five of the men: myself; Baleka; Booi, Livingstone Gulwa and the fifth person was the accused, Mrs. Mapolisa.

What did he do when he had selected the five of you?

--- He said the five of us were to distribute pamphlets throughout Zone G and the rest of them must go.

Were you then handed leaflets? --- Yes sir, we were.

All five of you? --- Yes sir.

What did you then do with those leaflets? --- We distributed them from door to door.

And when you were finished what did you do? --- We all returned to the Chief Steward's house.

Have you been to school? --- Yes sir.

What standard did you pass? --- I passed my Junior Certificate at school.

Can you read ... did you read a copy of this pamphlet?

--- Yes sir, I did.

Can you remember anything of what you read? --- Yes, this was rather a serious pamphlet. It referred to a three-day strike.

Can you remember anything of what it was about this three-day strike? --- The three-day strike was organised by the African National Congress and its object was an objection against the declaration of the Republic of South Africa. That any celebrations organised by any government department.. that nobody was to attend such functions.

Will you have a look at the document exhibit A?

--- It was exactly like this one. The thing I am not certain about is the handwritten words right at the top of the page: "Amandhla Ngawetu - 29th, 30th and 31st".

BY THE COURT: What is he not certain about that? --- I do not remember whether I saw those words on that pamphlet your Worship but the rest of the wording is exactly the same.

The/.....

The contents - the rest of the contents sir.

PROSECUTOR: What does the contents of that pamphlet you have now, exhibit A deal with? --- It refers to this three-day strike. Nobody must go to work.

Was that the only occasion on which you distributed pamphlets, May, 1961? --- I remember another occasion in 1961 sir. That was in June of 1961. There was- every year there was a pamphlet available for distribution in June of each year. We refer to it as "Freedom Day".

Do you know when "Freedom Day" is? --- It was the 26th June.

Where did you get that pamphlet from? --- From the Chief Steward Alfred Noboya at his house.

Did he hand you pamphlets there? --- Yes.

Were you the only one there? --- No, we were all gathered there but again only those five of us were selected.

The same five as previously? --- Yes, the same five as on the previous occasion.

What did the five of you do with the pamphlets you were handed by the Chief Steward? --- We distributed them in the same manner. From door to door.

NO FURTHER QUESTIONS BY STATE PROSECUTOR.

CROSS-EXAMINED BY MR. MARTIN:

How did the five of you distribute these pamphlets on this second occasion, from door to door? Did you all go down the same street or did you go down different streets?  
--- To get a move on that was how we did it. We all went down the same street.

BY THE COURT: In a group of five? --- Yes sir some on one side and the others on the other side of the street.

BY MR. MARTIN: There were seven streets in your area weren't there? --- Yes sir.

Were some of them very long streets? --- There are only two long streets in that area.

How/.....



How long did it take you to distribute pamphlets on each occasion that you distributed them? --- About an hour to an hour and fifteen minutes.

Were you told why only five of you were being selected and why the rest of the zone was not going to assist in the distribution? --- We were not told the reason why but I did ask the Chief Steward the reason myself - why. He said the reason why was because the five of us knew the danger of distributing pamphlets. The others did not realise that it was so dangerous.

Now, if one of the five were not there when pamphlets were to be distributed did anyone else assist? --- In such an event there were two men available .. Campbell Ndlebe was one of them.

Who was the other? --- Richard Zicwele. It was not a frequent occurrence that the original five were not all present.

Did the Chief Steward himself ever assist in the distribution of pamphlets when one of the five were not present? --- The position was this - the Chief Steward always went out, ahead of the five. He always checked to see whether the road was clear. If one had to take the place of one of the five in the event of one being absent then the Chief Steward always accompanied the person.

What did you have to do with these pamphlets in each house? --- Where we were able to push them underneath the door we did so. If we were unable to push them through under the door it was placed on the doorstep with a stone on it.

Did the "Freedom Day" have any other name? --- Yes sir, it was also known as "The Day of Mourning".

Did it ever happen that when you went to collect pamphlets for distribution you were simply handed them as you arrived without waiting for the other five to collect and then/....

then go and distribute them? --- No sir.

Did you always distribute them in a group? --- Throughout the streets some would be on the one side and the others on the other side of the same street. That is how we operated.

What was the point of returning to the Chief Steward's house after you had distributed pamphlets? --- The reason why it was an instruction that we had to carry out for the purpose of a check by the Chief Steward to see if we were all safe.

But hadn't he gone ahead of you to check that all was clear? --- He was always far ahead of us and when entering the last street he would go ahead to his home and wait for us there.

Would it be true to say that the five of you liked distributing pamphlets? --- Yes, we did.

Now you have told us that the code number of your street was P.1/3. --- Yes sir.

Now, were all the streets in your area P.1/ ... something or was that first "1" sometimes changed? --- The "P" always remained the same. The "1" was for the first receipt issued. In the event of ... or when the second receipt was issued the number would then be changed to "2". That is how I instructed the people in connection with these receipts. The last number after the stroke would always remain the same. The "1" for the first street, the "2" for the second street and so on up to "7".

Now can you remember one or more than one meeting at which you specifically saw the accused paying subscriptions?

--- There were many occasions on which I saw the accused paying but the one occasion that I will never forget was when the receipts were issued for the first time because on that occasion everyone present paid.

Now, at which meeting was it that you all paid, on this/.....

this first occasion when receipts were issued? --- At a meeting held in Alfred Noboya's house in May of 1961 sir.

In May, 1961? --- Yes sir.

COURT: Was that the one where he was deposed? --- Yes sir, that is correct.

And returned to the ranks. --- Yes sir, I was demoted to the post of Cell Steward.

MR. MARTIN: Didn't you tell us in your evidence-in-chief that yourself and the accused and a number of other people paid?

PROSECUTOR: No your Worship, the witness didn't say that, the previous witness said that.

COURT READS NOTES:

MR. MARTIN PROCEEDS: Livingstone, who gave evidence before you said that a number of others paid, apart from himself and the accused. He didn't say that everyone paid. Is he correct if he says that just a number of the others paid?

--- It is quite possible for Gulwa to make such a mistake because it was the first meeting that he had attended. I, sitting in the position of Chief Steward, sitting next to the Prime Steward Gerald Peter at the table, everybody paid to me and I handed the money to him. I am not mistaken.

Who wrote out the receipts? --- Gerald Peter wrote out the receipts himself. He was showing us how it was to be done.

You were deposed because there was some discrepancy in the money I think you said? --- Yes sir.

What were these discrepancies? --- When the organisation was banned in April, 1960 there was an instruction that all old membership cards must be collected and that in future we were to continue collecting an amount of 20c and we were just to issue an ordinary piece of paper as a receipt for that amount. I used some of this money that I was supposed to pay to the office sir and that was where the discrepancy arose.

Where/....

Where was the accused's family when meetings were held in her house? --- They were in a separate room.

Do you know her well? --- Very well sir.

How did you get to know her? --- She doesn't live far away from me.

Did you get to know her from seeing her in the street then? --- I first got to know her in the street. In 1956 I became a Cell Steward. I was a Cell Steward of Sopasi Street. That is before I was appointed to the post of Chief Steward and I got to know her that way.

Was she already a member when you became a member or did she become a member afterwards? --- She became a member when I became Cell Steward of Sopasi Street.

BY THE COURT: Did you recruit her? --- Yes sir.

BY MR. MARTIN: Are all her children still living? --- Yes sir.

None of them are dead? --- One of her children died a long time ago. All her children that were alive when she was arrested are still alive.

This one that died a long time ago do you know what he died from? --- He died of stab wounds.

BY THE COURT: When was that? --- I am not sure whether it was in 1961 or 1962 sir.

BY MR. MARTIN: You have told us I think that meetings were on a Monday night, is that so? --- Yes, every Monday night sir.

And also that you lived in Zone G? --- Yes sir.

You said that the first meeting in May, 1961 was held at approximately seven o'clock. --- That is correct.

What time were meetings held after that, if the time was not the same? --- At eight o'clock at night.

Why was there this change in the time of the meeting?

--- This meeting that was held in May of 1961 was the only occasion that a meeting was ever held at approximately seven o'clock.

BY THE COURT: Why? --- The reason why, your Worship, as far as I can/.....

I can remember was because he brought these receipts that had to be explained and the fact that there was to be a change in the Chief Stewardship.

Who? Who brought them? --- Gerald Peter sir.

Who is he? --- He was the Prime Steward sir.

BY MR. MARTIN: Now your zone, Zone G, was divided into seven streets. Did you have somebody to look after each one of the seven streets? --- Yes, and in a long street, depending on the length of a street, there would be two Cell Stewards in charge of the street, or three, depending on the length of the street.

Can you remember who was in charge of Maduka Street? --- Gulwa was in charge of half of Maduka Street and portion of Maqanda Street. William Bala took over the remaining portion of Maduka Street. On the remaining left side of the street ... Kleinbooi Ncongolo took over the remaining righthand-side of Maduka Street. That is three Cell Stewards in charge of Maduka Street.

I want you to tell me about the February, 1963 meeting, at which you were told that some people had been arrested. Were you told in which zone the people were that were arrested? --- Yes, Zone H.

And in what street? --- Nogongo Street.

Were you told whether they were inside a house attending the meeting when they were arrested or outside on the way or what? --- Inside the house at a meeting.

You have also told us that meetings were to be held without delay. Were you told that meetings were to take no longer than an hour? --- The position was that the members were to arrive at about the same time ...

BY THE COURT: The question was, were they told that the meetings were not to take longer than an hour? --- Yes sir.

BY MR. MARTIN: Now how did that meeting open - that February, 1963 meeting? Did/.....

Did you start off by paying your subscriptions?

--- Yes, on arrival we started with our subscriptions.

You also told us that you were told to approach the house from different directions, is that right? --- Yes sir.

Were you told that you were to go to meetings in pairs? --- Yes sir.

Were you told that a guard would have to be posted outside the house to watch for the police? --- Yes.

Right now I want you to tell us about the May, 1961 meeting; the second meeting in May, 1961.

COURT ADJOURNED.

ON RESUMPTION AFTER TEA-BREAK:

WITNESS WARNED: STILL UNDER FORMER OATH:

CROSS-EXAMINATION BY MR. MARTIN CONTINUED:

Now I want to talk about the second meeting in May, 1961 which you say was held at the house of the accused. What was the most important fact about this meeting? --- It was the first meeting held by the Chief Steward Alfred Noboya.

Well what was the most important matter discussed at the meeting? --- The main thing under discussion was the fact that I was being deposed as Chief Steward; a new man was appointed as Chief Steward and the new man had to be told how to work and the faults of his predecessor had to be pointed out.

But wasn't it at the first meeting in 1961 that you were deposed and your faults pointed out? --- At that meeting in May, 1961, when I was deposed Alfred Noboya was not told then how he had to work. That was Alfred Noboya's first meeting at the house of the accused.

Now Livingstone gave evidence yesterday and he told us that the meeting was told that arms were to be used against the police if necessary. --- I said in my evidence-in-chief that at this meeting Alfred Noboya told everybody that on their way to a meeting they must go armed. That was under this/.....

this new system.

No, you told us that in connection with the May, 1962 meeting, not the second meeting in May, 1961.

DISCUSSION: Court quotes notes. Court and Mr. Martin discuss the two meetings.

MR. MARTIN PROCEEDS: Are you giving evidence against the accused in the hopes that you yourself will not be prosecuted for membership of the A.N.C? --- I have already been released.

Do you not think that you might be prosecuted at this stage? --- That depends on the Court sir.

Why did you originally make a statement? --- I made up my mind that I must make a statement in connection with what I had done.

Why did you want to make a statement about what you had done? --- I happen to have a fair education and I read in the newspapers that my leaders, and the leaders of the organisation had made statements.

Did you read that your leaders had implicated all the other members of the African National Congress? --- I read that my leaders had made statements in connection with what they had done.

Did you read that your leaders had named everyone that they knew to be members of the African National Congress? --- My leaders told what they had done and I told what I had done together with the members.

Why did you mention the names of your fellow members of the zone? --- Because I did not do this work alone.

But your leaders did not mention the names of people who had not been charged, did they? Charged with them that is. --- They did not leave out anything that they had done.

Did they mention the names of those who had assisted them who were not before the Court? --- I do not know.

Didn't/.....

Didn't you make a statement thinking that if you did you would be released? --- No.

Well why did you make it then? --- To tell the truth. And I admit I still want my freedom today.

What did you think it would help to tell the truth?  
--- I am standing here today where I am to tell the truth and by telling the truth I hope to obtain my freedom.

NO FURTHER QUESTIONS BY MR. MARTIN.

NO RE-EXAMINATION BY STATE PROSECUTOR.

HARRY GLADILE: DULY SWORN, STATES:  
EXAMINED BY THE STATE PROSECUTOR:

Detective-sergeant, South African Police, attached to the Security Branch, Port Elizabeth? --- Yes.

Sergeant, I show you a document which was handed in as exhibit A. Will you have a look at that? --- This is a copy of a pamphlet similar to those I picked up during May, 1961 at Kwazakele in New Brighton Location, Port Elizabeth.

In what language is that document? --- It is printed in Xhosa.

Are you a Xhosa linguist? --- Yes.

Did you have English as a subject in school? --- Yes.

What standard did you pass? --- Std. VIII.

Did you make a translation of that document? --- Yes.

Did you do so to the best of your ability? --- Yes.

Will you have a look at this document which will then be exhibit B? What is exhibit B sergeant? --- It is a translation of exhibit A.

Please read out the translation sergeant.

WITNESS READS EXHIBIT B: "Strength is ours. 29th, 30th, 31st.."

S.P. PROCEEDS: You hand in that translation as exhibit B.

Sergeant, during June of 1961 did you pick up any pamphlets?

--- Yes.

On what day? --- On the 26th June.                   Where/.....



Where did you pick them up? --- New Brighton, Kwazakele and in other locations in Port Elizabeth.

NO FURTHER QUESTIONS BY PROSECUTOR.

NO QUESTIONS BY MR. MARTIN.

BY THE PROSECUTOR: In terms of Section 251, sub-Section (1) of Act 56 of 1955 your Worship I ask the Court to take judicial notice of the proclamations referred to in the charge-sheet. I close the State Case.

S T A T E C A S E.

BY MR. MARTIN: The accused has instructed me to deny, your Worship, from the bar that she was a member of the African National Congress. That she paid or solicited subscriptions for the Congress. That she allowed her house to be used for meetings of the Congress. Or that she assisted in the distribution of pamphlets. That is the case for the Defence your Worship.

D E F E N C E C A S E.

J U D G M E N T.

BY THE COURT:

The accused is charged on four counts under the Suppression of Communism Act, that is Act 44 of 1950. Firstly, a contravention of Section 3(1)(a)(i) read with Sections 11(c), 11(m)(i) of Act 44 of 1950 in that during the period the 8th April, 1960 to the 30th June, 1964 in Port Elizabeth, in this regional division, she wrongfully and unlawfully became or continued to be a member or office-bearer of an unlawful organisation to wit the African National Congress, also known as "Umkonto We Sizwe".

Count 2 as set out in the charge-sheet is the allegation that during the period the 8th April, 1960 to 30th

June/.....

June, 1964 she wrongfully and unlawfully contributed or solicited subscriptions to be used directly or indirectly for the benefit of this unlawful organisation, the African National Congress.

Count 3 is an allegation that during the same period, the 8th April to the 30th June, 1964 she wrongfully and unlawfully and knowingly allowed premises, to wit a house, occupied by her to be used for the purpose or in connection with an offence under Section 3(1)(a)(iv) of the Act by knowingly allowing members of the African National Congress, an unlawful organisation, to take part in any activity or carry on in any direct or indirect interest of the said organisation, in which it was or could have been engaged at the time of its being declared unlawful, by holding meetings of the said unlawful organisation in her house.

The fourth count is that during the same period she took part in the activities of the unlawful organisation to wit distributing pamphlets, which the State alleges is a contravention of Section 3(1)(a)(iv), read with Sections 11(c) and 11(m)(i) of Act 44 of 1950.

The evidence for the State consists firstly of the witness Livingstone Gulwa, a self confessed member of the African National Congress, who states that he joined it in 1960. He was recruited by one Campbell Ndlebe. He says he knows the accused. He knew her before a particular meeting which he described as she was a person who frequently visited his house when she, the accused, was friendly with his wife. He told of certain meetings that he remembers he attended of this African National Congress. He maintains that the accused was present at these meetings and that she was a member of this organisation. He describes the activities of this particular zone, that is Zone G of the African  
National/....

National Congress in New Brighton. He describes three meetings. He describes how they paid their subscriptions. Other activities such as tea-parties, all to raise funds, being held and being attended. And he also describes how on one occasion they distributed pamphlets. The one pamphlet concerned a copy of which was produced.

The second State witness was one Philip Mhlawuli. He apparently was at one stage a Chief Steward of the African National Congress, and was so until 1961. He was subsequently demoted to the rank of Cell Steward for apparent shortages in subscriptions collected. But he too gives evidence of meetings held in this zone of the African National Congress in this area. He confirms that the accused was a member - the accused whom he knows very well. He too relates these meetings, what was said and who attended them and when and where they were held. And the various activities.

Now this witness also relates to the distribution of pamphlets, the payment of subscriptions and the holding of meetings in the various houses of the various members of the zone. This witness is a Bantu of, to use his own words, of some education. He has passed his Junior Certificate. And being a Chief Steward he had considerable inside knowledge of the working of the African National Congress and this particular zone. He could describe in detail this new system of issuing receipts and the code that was used when issued.

The other witness for the State was Bantu detective-sergeant Gladile who confirms that during May, 1961 he picked up pamphlets similar to exhibit A, and he also picked up a pamphlet during June, 1961.

A comparison of the two State witnesses, Livingstone Gulwa and Philip Mhlawuli shows corroboration in great detail on very many aspects if not all aspects. While Livingstone

Gulwa/.....

Gulwa perhaps is not as intelligent or well educated witness or person as the second witness Philip, the Court was most impressed with Livingstone Gulwa as a witness and the manner in which he gave his evidence. He was honest and straightforward and perfectly frank.

The same can be said for Philip. The Court has no hesitation in accepting what they say. The Court accepts that the accused was a member of the African National Congress as they say, as she attended, or it is shown that she attended various meetings. These meetings were meetings of the African National Congress, a banned organisation. Once the State has established that and a person has attended meetings of a banned organisation the presumption created by the statute itself comes into play, unless it is rebutted by the accused. This has not been done at all in this case.

The accused has elected not to deny under oath any of these allegations. She has made a statement through her advocate denying them. The Court is satisfied that she understands fully the legal position, as regards these allegations.

There is, granted, in all such cases where co-participants give evidence regarding a crime a danger of false incrimination, but applying the rules, if one can call them that, as set out in the various decided cases, to the instant case, the Court has no hesitation at all in finding that what these witnesses have said is the truth. There is no risk in this case of the accused being falsely incriminated.

As regards Count 1, as I have already indicated, the Court finds that she attended these meetings and because of the presumption which has not been rebutted she is found to have been a member of the African National Congress during the period of the charge.

The Court is also satisfied that the State has

proved/.....

proved beyond a reasonable doubt that the accused did in fact pay subscriptions as alleged in count 2.

The Court is also satisfied that the Court has proved beyond a reasonable doubt that a meeting was held in her house, as alleged by the two State witnesses and she is accordingly found guilty on count 3.

The Court is also satisfied that she participated in the distribution of pamphlets, or in any event the pamphlet on one occasion, in May, 1961 - that is exhibit A - and she is accordingly found guilty on count 4.

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BY THE PROSECUTOR: The accused was arrested on the 4th September, 1964 your Worship and has no previous convictions.

MR. MARTIN ADDRESSES COURT IN MITIGATION OF SENTENCE:

S E N T E N C E.

BY THE COURT:

Tell the accused that I have listened to what her advocate has said.

According to the charge-sheet her age is 48 years. She was arrested in September, 1964, that means she has been in custody approximately nine months. She also has three minor children, and to a certain extent .. I would not say she played a completely minor role in the activities but certainly she held no senior post. On the other hand, she was still participating in these activities as late as 1963. And that is some while after the organisation had been banned, and the whole matter was reaching serious proportion through-out the country.

Granted there are various factors to be considered which the Court must consider, which are in her favour, but there are others on the other side which possibly weigh against her.

As/.....

As regards count 1, which is membership, I may point out to her that the maximum penalty there is a matter of ten years imprisonment. There is also a minimum punishment the Court can impose of one year's imprisonment. I mention that to point out to her the severity of the offence.

She has been in custody for nine months and that is taken into consideration as regards count 1, and she is sentenced to:- TWENTYSEVEN (27) MONTHS IMPRISONMENT.

On counts 2, 3 and 4, that is the activities - paying subscriptions, letting her house be used for meetings and distributing pamphlets are to the Court's mind part and parcel to a certain extent ... I am not saying entirely but to a certain extent part and parcel of being a member. They are treated as one for the purpose of sentence. On those three counts, treated as one for purposes of sentence she is sentenced to: TWO (2) YEARS IMPRISONMENT.

.....

L.P. FRANCIS ESQ.  
REGIONAL MAGISTRATE.

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**Collection Number: AD1901**

**SOUTH AFRICAN INSTITUTE OF RACE RELATIONS, Security trials Court  
Records 1958-1978**

***PUBLISHER:***

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

*Location:*- Johannesburg

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