

CASE NO: 1/64.

DATE: 2 MARCH 1964.

IN THE SUPREME COURT FOR THE EASTERN CAPE.  
HELD AT QUBENSTOWN.

BEFORE: MR. JUSTICE CLOETE and 2 ASSESSORS.

THE STATE VERSUS: MALCOMESS KONDOTI & 4 OTHERS.

FOR THE STATE: R.E. D'ARCY.

L.S. OOSTHUIZEN.

FOR THE DEFENCE: S. H. E. WIENAND.

RECORDER: E. LABUSCHAGNE.

TRANSCRIBER: R. BLUNDEN.

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DONALD JOHN CARD d.s.s.

EXAMINATION BY PROSECUTOR

You are a detective sergeant in the South African Police? Stationed at East London? -- That is correct.

You are in charge of the investigation of this case )-- Yes.

You were assisted by Detective Sergeant Vekkerling(?), Sergeant Scheepers, Bantu Constable Chikela and Mnchakeni? -- And Mnchakeni.

Now you produce a plan of the location in Duncan Village? -- Yes.

And a key thereto. That will be exhibit XX, and the key will be YY, which you hand in.

COURT: Is this a tracing of the village? -- It is a copy of a plan I obtained from the municipal office.

WITNESS READS KEY OF PLAN TO COURT.

COURT: Now East London town is to the left of the plan, is that correct? -- That is correct.

.. Highway, the main road that leads from -? -- From town.

From Northend to -? -- That is correct.

That is also the main bus route? -- That is correct.

It turns into Cemetery Road? -- That is correct.

This doesn't show the Duncan Village Extension at all does it, where that loop is? This ends with the - you know there are some new houses that were built? -- Yes, it doesn't - it shows the streets, it doesn't show the new houses that have been built. Where the spots KK and LL are that is beyond the new section. That is right out of the location. If you drive along Douglas Smith Highway from East London, from Northend, you travel right out to where KK and LL are, that is the furthestest spot away from town.

I had another case where there was Indendi Street. Does Indendi Street feature -? -- Yes, Indendi Street features on



that. It is almost at the end of the old section of the location. It is about halfway.

Yes I have got Indendi Street here. Now there is a street, Mikeni(?) Street is parallel with Indendi Street? -- Yes, it is the street below Indendi Street, parallel to Indendi Street.

Yes I know now where it is. The Cemetery itself is just off Cemetery Road near where that Umzabungo(?) River is?

-- That is correct.

In that open area? -- That is correct.

Doesn't Indendi Street branch off into two other streets? -- Indendi Street is to the left and the right of Douglas Smith Highway and at the end, to the left, going into the location -

On the sea side, the eastern side? -- That is correct. It turns into Windy Ridge Road to the left and to the right it ends up - it is a dead end, there is a school at the end.

The school is right at the end? -- That is correct, the school at the end and it is near the Catholic Mission.

So the most of the activity was then in the vicinity of Indendi Street and in the vicinity of this portion of Duncan Village across the Umzibungo River -? -- They call that the Tsolo Section.

South west is the Tsolo Section, south west of Duncan Village. You cross the valley at the river and then there is a slight rise and it is up on the hill? -- That is the Turandi...(?-) area.

I am talking about A, B, C. -- The A, B, C, points are quite near to the Police Station, that is the Tsolo Section and that is to the north of the Police station.

Yes. Yes that is right.

PROSECUTOR: You hand in those two exhibits? -- Yes.

Now on the 14th October, 1962 you found pamphlets lying around the streets in Duncan Village, exhibit M was one of them? -- that is correct, they were lying all over the place, that is the pamphlet, "The leaders are being accused -"

You also saw certain slogans painted on lavatory walls



in Duncan Village location? -- Yes.

Are those the slogans reflected in the photographs? --  
That is correct.

The photographs which are exhibits before the Court? --  
That is correct.

Then on the 18th November, 1962 -

COURT: Just one moment, did you cause those photographs to be taken? -- Yes.

PROSECUTOR: On the 18th November 1962 you visited the homes of Victor Tonjeni and Dickson Njani, that is where petrol bombs were alleged to have been thrown? -- That is correct.

Captain Venter and Detective Warrant Officer Bowen had visited these scenes previously? -- That is correct.

And then at 12.5am on the 16th December, 1962, you went to the home of the witness Hoy(?)? -- I did.

774 Kwinana Street Duncan Village? -- That is correct.

What did you find there? -- I found that three panes of glass had been broken out of a large window. The rest of the panes were charred black. I found pieces of what appeared to be brandy bottles on the inside and the outside of the room. There were definitely two bottles because I found tops of two of these bottles. These tops had been sealed. The corks had been placed on them and they had been tied on to pieces of string.

COURT: The corks were tied? -- The corks on them, yes. I also found pieces of cloth which appeared to be the type of orange bag, the pink ones that they use for containing oranges in. These pieces of cloth had been burnt.

PROSECUTOR: Did you notice the bedding and the interior of the house? -- Yes, the bedding the clothing, the furniture had been burnt inside the room. There was a strong smell of petrol. I collected pieces of bottle and cloth which I later had photographed, that is exhibit K.

Exhibit K is the photograph? -- That is correct.



Of the broken pieces of bottle. -- 1 on the photograph shows the two bottle necks, the pieces of string in both cases are visible. 2 on the photograph shows the burnt cloth which I have already mentioned. 3, pieces of glass which I found outside the window. 4, is a piece of glass very sharp on two ends, which I found on the bed, which was badly burnt. I also took Warrant Officer Sauer to this address and had exhibits K.1 and K -

K. 1 to 4? -- That is correct. I had all these photographs taken.

Did you point out any spots to Mr Sauer? -- Yes, I did, I did point out to him.

What spots did you point out? -- Well I pointed out all the spots to him and I asked him to take photographs of these different places. I also, on the following day, this was at night when I was there, early the next morning I noticed a mark on the window. It is visible on this photograph k.1. A small mark on - if you look below the window on the left hand side towards the bottom, about -

A small dark mark? -- That is correct. You can see it is a hole. Now that hole, when I examined it, I found what appeared to be small fragments of brass, obviously caused by a bullet, when a bullet strikes a hard metal it leaves a small amount of brass on that spot and I was quite satisfied that it was a shot.

COURT: Now we have on exhibit K.1 a point marked A. Would you just look at that? The one you mentioned is not marked?

-- I am mistaken, it must be the one marked A which is a bigger, but I thought it was the one next to the window -

The other one also appears to be a hole. -- Yes, I dont know, this was only marked afterwards, but the one that I remember was only a short distance away from the window, about 18 inches away from the corner and it appeared to be the one immediately



below, the one I have already mentioned.

We had better call it A.1 on K.

PROSECUTOR: Now at 9am. on the 17th December, 1962, John Mutji handed you a bullet head and a cartridge case? -- That is correct.

Mati, M-a-t-i, I am sorry? -- Yes, it is John Mati. Those are the articles contained in exhibit 3.

Which you hand in. On the 21st December 1962 Detective Constable Henrico handed you an envelope containing two spent cartridge cases, is that correct? -- That is correct.

These were in an envelope marked Duncan Willage R.C.I. 184/8/62? -- That is correct. That is portion of exhibit 4.

Portion of exhibit 4. Detective Sergeant Griffiths also handed you a bullet? -- That is correct.

And a report which he received from the South African Institute of Medical Research? -- That is correct. The bullet is portion of exhibit 5.

The on the 21st December 1962 you packed certain articles? -- I did.

Will you tell His Lordship which they were? -- I packed exhibit 3, the bullet portion of exhibit 5 and exhibit 4.

Yes, what did you do with that? -- I sealed that with official, police official seal No. 284 and sent it to the Ballistics experts at the S.A.C.B. Pretoria.

By registered post? -- Yes.

You have the registered slip, exhibit Zz, you hand in? -- Yes.

On the 7th January 1963 you went to the house of Dickson Njani? -- That is in connection with Mahlanga but that is not in connection with - no evidence lead in connection with this case.

Then on the 11th January you went to the Frere Hospital? -- I did.

Where you saw Bantu Constable Nkobi(?)? -- I did.



1963? -- 1963, yes. I went there at about 9pm. I found that he was suffering from a bullet wound which was -

COURT: Bantu Constable? -- Ncobi, N-c-o-b-i.

Yes? -- He had a bullet wound below his shoulder blade. Then as a result of information supplied by him I went to Independent Street with about 40 policemen. While searching the street one of the members called out to me and I went up and picked up a cartridge case, that is portion of exhibit 6.

Later a bullet head was handed to you at the Frere Hospital by a doctor? -- That is correct. The doctor who dealt with Ncobi.

That is Mr Puttock(?)? -- Yes.

That is also portion of exhibit 6? -- That is correct.

Then on the 12th January 1963 you went to the home of Mary Neye(?) where the complainant handed you a bullet head? -- That is correct.

Which she found in your presence? -- Yes, we searched the room for bullet heads. That is portion of exhibit 7. On the same <sup>day</sup> Detective Constable Henrico handed me two cartridge cases and a live bullet and later Mary Neye handed me a further bullet head, those are all exhibit 7.

Now on the 25th February 1963 you packed a further parcel? -- I did.

What did that parcel consist of? -- Exhibit 6 and exhibit 7.

Yes? -- These I placed in a registered parcel, sealed with official seal No. 384 and I sent it to the ballistic experts at the S.A.C.B. Pretoria. It was under registered post.

The slip is also handed in? -- That is correct.

Exhibit AAA. -- I hand this in, exhibit AAA. At the same time I requested that the S.A.C.B. forward all the exhibits already sent, that was the exhibit send by Detective Sergeant Griffiths and two previous parcels which I had sent, this parcel



plus the previous one that I had sent. This arrived in due course, it was still sealed and I kept it in my possession still in the sealed position.

Later all these exhibits were returned to you that you sent to the S.A. Criminal Bureau? -- That is correct.

On the 15th February 1963 you visited the home of Victor Tonjeni and made certain observations? -- I did. I only went there late that afternoon and - I got back from Pretoria about 2 o'clock.

On the 12th March 1963 you took Detective Warrant Officer Sauer and pointed out spots to him at this place? -- That is correct.

At Victor Tonjeni's house? -- That is correct.

And on the 26th April 1963 you went to the house of Gush Nzuzu? -- I did.

What did you find there? -- Between two mattresses I - at least there is a cloth and sacking, and between the cloth and the sacking and the mattress I found newspaper which was wrapped up in the form of a parcel and inside that I found the pistol, exhibit 1 and revolver, exhibit 2. The pistol, exhibit 1, contained exhibit 9, which is a magazine and two bullets.

Those are exhibits 1 and 2 and 9, you hand them in. The same day you went to the home of accused No. 2, is that correct? -- That is correct.

Did you find anything there? -- Accused No. 2 was not at home, in fact I had visited his home often before that and could not find him there, but on this occasion he wasn't there, I then forced the door and inside a coat pocket in his room I found the receipt book, that is the receipt book which contained the Flying Eagle. That is exhibit QQ. I may add that I found this - I am satisfied that this flying eagle is the emblem of the African National Congress as I have had dealings with this eagle previously.

Now on the 29th April 1963 you packed the sealed parcel which you had received back from the S.A. Criminal Bureau? --



That is correct.

And anything else? -- Together with the exhibit 1, 2 and 9, and this sealed packet which I had previously received from the S.A.Criminal Bureau, that is all the exhibits which had been sent to ballistic expert previously.

COURT: All the bullets and cartridge cases? -- That is correct. In other words I packed everything to do with bullets and cartridges and firearms, packed in one parcel with I sealed and - with official seal No. 384 and I handed this parcel over to Warrant Officer Ackermann to deliver to the South African Criminal Bureau. Later Warrant Officer Ackermann returned all these articles to me.

Now you found certain other pamphlets, is that correct?  
-- That is correct.

There was one known as the "Freedom Day" pamphlet? --  
That is correct that is -

24th June 1963? -- That is correct. There were thousands of them lying around the location. That is exhibit KK, the one that was mentioned by the handwriting expert.

The ones found by you had similar wording to KK? -- Similar in every respect, even the black lines across the top which are not normally found on clean roneo sheets were the same.

These you subsequently submitted to Sergeant ...? -- That is correct.

On the 25th June 1963 you arrested accused No. 4? -- Yes.

Where was that? -- In his room in the location.

And then on the 12th August 1963 you returned to his room and made a search? -- I did.

Did you find anything there? -- Yes. I must explain how the house is built. It is a corrugated iron room, very small, and on the inside there are beams, the corrugated iron is attached to beams on the inside, and attached to those beams again are strips of plank which form an inside wall in the place, and there



is a narrow gap between the outside corrugated iron and these pieces of plank. I then forced out two pieces of plank and looked down on the inside of this narrow gap and noticed pieces of paper towards the lower corner. I then pulled out some planks opposite the pieces of paper and I found exhibits EE and Ff and JJ. Those are the plans of the police stations and the plans of main roads. Accused No. 4 was not present when this was done.

Did you subsequently show these plans, these exhibits to accused No.5? -- I did.

Did you ask him anything? -- I did, I asked him what he knew about them.

COURT: Did you warn him first? -- Yes. He said that he knew nothing about - he had no dealings with these maps whatsoever, accused No. 4 was the man who had been instructed to draw up these maps.

COURT: That is hearsay evidence.

PROSECUTOR: It is the explanation of the accused? It is no evidence against accused No. 4.

COURT: Yes.

PROSECUTOR: Then on the 18th July 1963 you went to No. 48 Princess Alice Drive, East London? -- I did. I had been to this address previously and found the room locked. On this occasion I knocked on the door and tried to open it again and it was locked, and there was a cloth, a piece of cloth lying below the door on the inside, I could see it from the outside when I shone my torch. I went next door to make enquiries and when I came back I noticed the cloth had been removed from the inside. I then broke down the door, after they had failed to open this door, I had requested them on numerous occasions. I then saw a foot sticking out of a small window. I may explain that this is a double storied building, there is a garage below and it is a very small window, and I saw this foot hanging on the inside and I grabbed hold of the leg and after a struggle I managed to get this person in and



I found that it was accused No. 2. He was apparently trying to climb on to the roof.

Do you know how it happened that accused No. 2 secluded in this room? -- I had received certain information and one morning between 8 and 8.30 I was expecting a visitor, I didn't know who it was. I later found out that it was accused No. 2. He told me that he wanted to assist me with the acts of sabotage. He said that on the Monday night a group of Bantu had got together in the bush.

COURT: Was this without any warning? He just volunteered --?  
-- Yes, he came to give me information.

Oh, had he come to give you information? -- Yes, he had come to assist me with information. He explained that there were two Bantu from Johannesburg who were teaching this group of men how to commit acts of sabotage and he said that on the Monday night he wasn't able to find out exactly where they were, but that they were going to meet again on the Thursday night. This was on the Wednesday morning that he was talking to me.

COURT: Is this a trap laid for him? -- Yes. He said that, he explained that I would - that he would assist me and take me to this meeting on the Thursday night but that I must not take a group with me because he was frightened that the others would discover who the informer was. I explained to accused No. 2 that I knew what he was up to and I also told him that I had given his name together with the names of all the other members of his group to different members of the police and that should I be killed they would deal with him. I then nevertheless told him that he must come back on the Thursday morning so that we can made the final arrangements about going to visit this place in the bush. And that was the last time that I saw the accused until I arrested him at 48 Princess Alice Drive.

How long before the 18th July did this conversation take place? -- Between two and three months.

Could it have been in February 1963? -- Yes.



The 25th February? -- Yes, about the 25th February. It was on a Wednesday morning.

Now on the 31st July 1963 you arrested accused No. 1? -- I did.

Where did you arrest him? -- In a Bantu hut near Hamburg. It was apparently a storeroom there. There were 44 gallon drums with ? (mealies) in and ploughing equipment. The door was locked, padlocked from the outside. I had to break the lower portion of the door and I found the accused when I entered, hiding behind the two 44 gallon drums, he had apparently been sleeping there.

What time of the day was this? -- This was in the early hours of the morning. I am not sure of the exact time now, but it was - it must have been about 2 am.

He wasn't in bed? -- He had apparently been sleeping there, he had a blanket with him.

He wasn't actually in bed? -- No there is not a bed there, it was a storeroom, he must have been asleep previously because the blanket was lying on the ground, but he was actually hiding behind the drums. I had to break the door down first, I kicked the bottom portion of the door in.

Now on the 19th July 1963 one John Mutji -? -- He took me to Langwali(?) location where I recovered the Gestetner now before the Court, exhibit 19.

Which you hand in? -- Yes.

On the 14th August 1963 the witness Alton Seti handed you an A.N.C. receipt book, is that correct? -- That is correct, that is exhibit W.W. It also bears the flying eagle stamp on it.

You hand that in? -- Yes.

On the 16th August 1963 Mdubi handed you the typewriter? -- Exhibit 18, that is the black typewriter.

It is 18.4. -- Yes I had, previously when I sent these articles away I marked them, I gave them different numbers. It was marked 4 previously and it is the one that is marked 18.4 now.



Then on the 17th July 1963, witness Tamsonkwe Selane(?) handed you one gallon tin, the oil tin? -- That is correct, that is exhibit 13.

Which you hand in. -- That was actually in his room when we entered.

Accused No. 3 was arrested at his home on the 25th June, 1963? -- Yes. We went out, a group of us went out to different houses, I saw him that same night - later that same night in custody.

COURT: What date was that? -- 26th June 1963.

PROSECUTOR: 25th June? -- The same night that we arrested accused No. 4, the 25th, yes.

And then on the 18th July 1963, you arrested accused No.5 at attorney Mtahisana's office at East London? -- That is correct.

Now one of the witnesses mentioned a slogan here and said that it was a song, do you know anything about that? -- Yes.

Is it in fact a chant? -- There is a song which was sung by the A.N.C in the past, which I know, that is Myabuya(?) Africa. They use the same words over and over again.

Now on the 10th September 1963, you packed the typewriter pamphlets and maps, is that correct? -- That is correct.

Now where had you found the other typewriter? -- The other typewriter had been handed to me by the police, I actually took possession of it at the security offices and it was later identified to me by the witness Maja, Ntiti Mjaja.

As being his property? -- As being his property.

What is the exhibit number? -- Exhibit 16.3.

You took the two typewriters before the Court, the maps and the pamphlets to the South African Criminal Bureau for examination by Sergeant ...? -- I did.

Now there is a bottle before the Court, exhibit 12? -- That was handed to me at the Duncan Village Police Station, it is one that was identified to me by Tonjeni.



It contained a liquid orange in colour? -- Yes.

Did you smell it? -- Yes it smells like, more like thinners and paint and petrol all mixed together. I may add that when I first got that bottle there was a different smell, there was a stronger smell of petrol to what it has today. It smells more like paint today.

COURT: Yes, it smells like paint or the thinners one uses for cleaning off paint. -- Yes, it had a stronger smell of petrol when I first recovered it, it was almost half full when it was handed to me.

PROSECUTOR: Now you received these trousers, exhibit 14? -- I took possession of the pair of trousers from Bantu female Lizzie Nike(?). M-n-i-k-i. Lizzie Mniki.

Did anybody subsequently claim them? -- On the 14th of last month, February 1964, while escorting the accused persons here to Stutterheim, that is to Queenstown, near Stutterheim we stopped and accused No. 1 wanted to know from me what I had done to his trousers, or at least he wanted to know where they were. So I explained that they were being used as an exhibit and that he could recover them after the case.

Did you show him these trousers? -- No. I asked him which trousers he was referring to and he said the trousers that were taken away from Mniki's wife. They are the only pair of trousers.

By you? -- Yes.

They are the only pair of trousers that you took away? -- That is correct.

Now you told us that you found these firearms? -- Yes.

Did you ever discuss anything about them with accused No 1? -- I did.

What did you say to him? -- I may add that I had not warned the accused at that stage. I had previously warned him. When I discussed the matter of the firearms on that day I didn't



warn him.

COURT: Any objection Mr Wienand?

DEFENCE: Milord I don't know what is going to be said. -- I had warned this witness previously regarding a statement - if he wanted to make a statement and that time he made a certain statement to me and this was more or less a continuation of the conversation we had, but at a later stage.

COURT: Yes? -- I wanted to know from the accused No. 1, he denied all knowledge of acts of sabotage, he said that he knew nothing about sabotage, so at a later stage I approached the accused and wanted to know from him that if he knew nothing about the acts of sabotage why did he scold certain youths, why did he scold certain youths about losing a pistol. His explanation was that during 1962 towards the end of 1962 on Dumanokwe) and a young man from Port Elizabeth. Milord I wrote that name down, I haven't got it here, it is something like Solangwe, something like that, arrived in East London and he was sent for. He was then in the presence of Mark Mazeze(?), Ngobozi (Gobozi) and the two persons already mentioned. He said that he was given a pistol to keep, by Dumanokwe and he said that Gobozi was given the other pistol. He said that the reason why these pistols were handed to them was to protect themselves against members of the P.A.C who had threatened violence against them. He said that later the pistol was taken by Mark Mazize and when he heard that it was lost he knew that it would be demanded from him and that is why he went and scolded these youngsters who had lost this thing.

Sergeant Card, Sergeant Atmore referred to exhibit GG and HH, which was specimen writing? -- That is correct.

Do you know anything about them? -- Yes they are samples of the writing of accused Nos. 4 and 5.

GG is -? -- GG is accused No. 5 and HH is accused No. 4. I went with Sergeant Scheepers to the ... Jail where we got



the two accused together there in the office and got them to write. Certain names, we gave them the names to write down. Those are the samples GG and HH, which I also sent off to Sergeant Atmore.

When you sent the maps? -- And the typewriters, yes.

And the circulars? -- Yes.

Now exhibit M is the same as exhibit KK.8? that is -? -- That is correct, KK.8 and exhibit M are the same pamphlet, exactly the same pamphlet.

Then you also took possession of exhibit NN, which is a list of names? -- Yes, I took possession of that from Warder Barnard at the Fort ... Jail.

You hand that in? -- Yes.

Then there is a pamphlet RR? -- Yes that is the boycott of Dickson Njani's shop. I am not sure of the date but it was about July last year that I saw -

Last year? -- 1962, I am sorry. In 1962 I saw a number of these pamphlets distributed in the location and some of them were stuck up on to the electric light poles in the location.

Then you also received exhibit 8? -- That I took possession of from Mr Smit, the specialist; the one that was removed from Degarde. And exhibit 8 I also sent away in that parcel that I sent off with Warrant Officer Ackermann. And when the parcel was returned to me there was an extra exhibit, exhibit 10, those were the sample bullets that were sent back to me.

You hand in exhibit RR? -- Yes.

And exhibit 8 and 10? -- That is correct.

CROSS-EXAMINATION BY DEFENCE.

Sergeant before we go on to your evidence-in-chief, you were of course aware that there was a trial of a certain China Lulwana in East London? -- Yes.

In Grahamstown? -- That is correct. It was held in Grahamstown.

He was charged with sabotage? -- That is correct.

Do you remember the indictment? -- I can't remember the



indictment.

Did you actually see it at the time? -- I don't remember seeing it. I know what the charge was about.

He was actually charged with commission of sabotage on Victor Tonjeni? -- Yes, the present count 6.

Now you were present during that trial? -- Yes.

Now could you just tell His Lordship and his Assessors how it came about that he was charged? -- We received certain circumstantial evidence against this man, about this movements in the location on the night of the commission of this offence.

There were quite a few State witnesses? -- There originally were - there was originally two State witnesses, one turned on his statement and then the accused, this man China Lulwana was found not guilty.

Yes, he was acquitted eventually. -- Yes.

There were also similar photographs in that case to the one in the present charge? -- That is correct.

One of the witnesses actually said that he had seen China in that vicinity with bottles? -- Well he didn't describe bottles, he said something in his hand, something wrapped in a cloth.

Are you sure that there was no mention of bottles? -- I am not sure, there were different statements that were taken from different persons and I don't remember a bottle, I think it was mentioned as something wrapped in a rag.

That is right. There was one witness who said - actually there was one witness who denied seeing anything wrapped in rags. -- That is correct. One said that he didn't see anything and the other one said that he saw something wrapped in rags.

Then there was a witness who said, it looks like Sebuso, Joseph Mandox Sebuso, do you remember him? -- Yes, I remember him.

He said that he had seen China and he had things like bottles too? Is that possible? -- It is possible, I can't remember.

He had one in his pocket and one tucked under his shirt? --



It is possible.

"I saw that one was wrapped in a cloth." -- Yes.

And a little while later on he again said, "he still had the bottles with him" when he saw him at a later stage? -- I can't - as I say, I can't remember the - the story was more or less from the different persons that these people went around the location that night singing and we based most of our evidence on a witness who was a minister and two youths who weren't very reliable and the story was that this man, China Lulwana went into the bush quite near, about 600 yards away from Tonjeni's house. He came out with two objects, which might have been bottles, and he disappeared again and later that night while they were sitting near a tractor they saw Tonjeni's house burning. That is the gist of the story and it was on that evidence that the accused, this China Lulwana was put on trial and he was found not guilty.

You say on the evidence of a minister and two youths. Were the two youths unreliable or the minister too? -- No the minister was reliable, his story was acceptable, but the youths, the one actually turned on the statement at Court. That was to do with the Poqo organisation.

Yes, that is right. -- Not to do with the A.N.C.

It was nothing to do with the A.N.C as he was - wasn't he eventually convicted of Poqo activities, this same China? -- Yes, he was sentenced to 13 years imprisonment.

Yes. That was in Butterworth? -- That is correct.

That was on a charge of sabotage and membership of the P.A.C? -- That is correct. Actually accused No. 1 attended the trial at Grahamstown. Accused No. 1 and two other members who have been arrested, actually attended this trial at Grahamstown, and actually I had them searched when they entered the Court at Grahamstown when they attended that trial.

Attended the trial of China Lulwana? -- Yes, accused No.1



was there plus two others, Gwenche and Sidi(??).

Now just formally again Sergeant, I must put it to you that wherever you incriminate the accused they deny that evidence against them. Now in regard to the witness Alton Seti. During your investigations of this case, Sergeant, I take it that your patience must have worn pretty thin? -- Yes.

And you had to interview numerous people? -- Yes.

And when your patience wore thin was it occasionally necessary for you to assault certain people? -- No. Actually I had a discussion with the advocate about Seti in confidence, we were discussing certain matters outside.

Well I am not going to put that to you. -- Well it is coming that way and the position was that I told him that Seti would deny that he got a crack from me, I hit him over the head with a ruler one day when my patience was - well actually I was so tired of listening to his story, he talks as he speaks in the Court here, he tells the same story over again, but you ask him about one meeting, he tells you one story now and the next minute he goes on to the second meeting, but you tell him that you are still talking about this meeting. Well this went on for four days, I took his statement; it took me four days to take a statement from him.

COURT:? You were exasperated.

DEFENCE: I am very sorry that you raised this because it was not going to be put to you? -- Well it was coming, I knew it was coming.

No it wasn't. What was coming to you is do you know how it is possible for him to have a swollen wrist? -- Yes.

How did that take place? -- It must have been when I cracked him with the ruler. I knocked him over the head, but I don't know, I was so cross at the time, that I think he put his hand up and I could have caught him over the wrist at the same time.

Now in regard to the witness Alfred Mapela(?), do you



know whether he was assaulted at all during investigations? --  
Once again I am put in a difficult position, if I am going to  
answer that question now, there could be trouble for me. It -  
is it necessary for me to answer it, the position is, I can  
say this -

I won't press you for it Sergeant. -- An assault was -  
a report was made in connection with this man, an investigation  
was made, and this man withdrew the charge, at a later stage.

Well I am not pressing you. It wasn't laid against you?  
-- No not against me.

Now, when you interviewed accused No. 4, he will say that  
you told him that he should make a statement? -- No.

And that if he didn't make a statement you would find  
enough witnesses to incriminate him? -- That is not the case.  
Accused No. 4, I interviewed, we had a discussion I then informed  
him that if he wanted to explain certain things he could and I  
know for a fact, I was present on numerous occasions when requests  
were made to Lieutenant Cloete, who was in charge of the  
Security Branch by accused No. 4, to make a statement.

Cloete? -- Yes, Lieutenant Cloete. On numerous occasions  
accused No. 4 requested him to get him up to his office so that  
he could make a statement. And I know that most of those  
requests were ignored.

Now with regard to accused No. 1, he will also say that  
you interviewed him and asked him to make a statement? -- I  
interviewed accused No. 1 on about five occasions, I didn't ask  
him to make any statements.

He will say that you asked him to make a statement and if he  
did so he would go off scott free? -- I would never do that.  
That would be an impossibility, not with accused No. 1. I would  
be insane to even say such a thing.

Now in regard to accused 2 specifically, he will deny that  
you found the receipt book in his room. He says that he has



never seen a receipt book like that before? -- There are other writings on papers in that room which resembled the writing in the front of that book, in his room. It apparently it was in his handwriting, and there is - the dates there are for 1963, I am not sure of the months, but in that book, in that receipt book, QQ, you will see that the dates are 1963 and there is writing in there which is similar to writing which I saw in that room. I found that in his coat pocket. I may add, I found another one of those receipt books, unfortunately it was mislaid somewhere, I found that in his wardrobe, but that I haven't been able to produce, but it was for a date in 1962.

In regard to the revolvers, the evidence you gave about Dumanokwe, etc., accused No. 1 also denies ever having that discussion with you? -- Well he did.

COURT: Did you gather from him that this man Dumanokwe was the advocate? -- Yes, milord.

Thankyou Sergeant.

---

TRANSCRIBER'S CERTIFICATE.

I, the undersigned, hereby certify that the foregoing is a true transcript of the evidence of Donald John Card in the case of:

THE STATE VERSUS MALCOMESS KONDOTI  
& 4 OTHERS.

  
TRANSCRIBER.

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Collection Number: AD1901

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

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POINTS OF SIGNIFICANCE

- (a) After the A.N.C. was banned it continued to issue pamphlets. These were anti-Govt., or directed against persons opposed to the A.N.C. or representatives of chiefs.

P. 76. L. 6 - 12.

BUT none of these pamphlets were produced in evidence, NOR is there evidence that they were in fact issued by the A.N.C. or proof to show that the A.N.C. was responsible for them. Card's evidence is based on the fact that the pamphlets purported to have been issued by the A.N.C. or the African Action Council (which is NOT shown to have been linked with the A.N.C. or to have been party to the conspiracy). One of the persons named in the pamphlets was murdered.

P.76. L. 13 - 17.

No allegation is made in the Indictment that the A.N.C. was responsible for the murder of this person, NOR is there any charge of incitement to murder. The pamphlet was NOT produced by Card. NOR has the death been proved by proper evidence, NOR is there evidence that they were issued in terms of the conspiracy.

P.98. L. 19 - P. 99. L.5.

- (b) There were also slogans painted on walls. Also anti-Govt. and against spies and collaborators.

P.76. L. 18 - 25.

BUT there is no evidence to show that these slogans were done by A.N.C. members, OR that they were authorised by the A.N.C., OR that they were done in pursuance of the conspiracy.



(c) He proved that the following acts of sabotage were committed.

No. 41:- Petrol bombing of residence

Damage to furniture and injury to Matoti.

Mgabela has been arrested.

No evidence who committed Or why.

P.76.L29-P.77.L25

No. 51:- Bantu Administration Office

Attacked by petrol bomb.

Smell of paraffin present at scene. No

arrests.No evidence as to who committed act. P. 78. L. 6 - 21.

No. 101: Petrol bombing of residence

A man against whom a pamphlet was issued.

He was a witness in Tumi Tshune trial. No

evidence as to terms of pamphlet. No

evidence as to whether incident was before

or after pamphlet, OR before or after trial.

Persons arrested.

P.78.L.22-P.79.L.21

No. 102: - Petrol bombing of residence

Same night as No. 101. A.N.C. person

arrested. No evidence as to who committed

act.

81(?)  
P.79.L24.-P.80.L.4.

No. 129:- Petrol bombing of Hoyi's house

Newspaper man who said that freedom would

not be won for 100 yrs.Two young girls

injured.One died four days later. Also

bullet mark in wall.A.N.C. persons

arrested No evidence as to who

committed act.

P.81.L.5-P.82.L24



No. 162:- Petrol bombing of residence

No damage.

A.N.C. persons arrested.

P.85.L12- P.86.L.5

Powerline between Alice and King-  
williamstown

Number not given.

Poles sawn.

Three A.N.C. persons convicted.

P.86.L.6.-P.87.L.4.

No. 68: (P.E.) - petrol bombing of residence

No details.

P.89. L.1 - 7

No. 86: (P.E.) - telephone wires cut

cut with pliers.

P.89. L. 8 - 13.

No. 88: (P.E.) - telephone wires cut

cut with pliers.

P.89.L.14 - 25

No: 92: (P.E.) - telephone wires cut

cut with pliers.

P.89.L.26-P.90.L.2.

No: 93 (P.E.) - Railway line

point deviated to side track.

No train that night. If train had come at

speed would have turned over. No

other details.

P.90. L.3 - 16.

No: 94: (P.E.) - telephone wires cut

P.90. L. 17 - 23.

No: 98: (P.E.) - telephone wires cut

pliers used.

P.90. L. 24 - 29

No.: 99 (P.E.) - telephone pole sawn off

P.90.L.30.-P.91.L.8.

- (d) Also dealt with certain alleged shootings which were not charged in the indictment.

Dukada - shot in spine. (police informer)

spine cord dried up &amp; expected to die (no

medical evidence). One arrest.

P.77.L.26-P.78.L.6.



- Mtoti - shot at - bullet mark on  
corrugated iron.No other details. P.82.L.25- P.83.L.1  
One arrest. P.83.L.29 - 32
- Mhlanga -(hearsay purely) - shot at  
No other details. P.83. L. 2 - 8.  
No arrests. P.85. L. 1 - 2.
- Mary Neer - bullet heads found in house,  
and signs of shooting through window. P.83. L. 9 - 18  
One arrest - A.N.C. man. P.85. L. 2 - 4
- Ncobi - shot in shoulder blades.  
Seen in hospital.No details. P.83.L19 - 27  
Two arrests. P.85. L. 5 - 8.
- (e) He also dealt with maps found by police at  
house of Stephen Tshwere.Although Card  
says he was an A.N.C. man on the Border  
Regional Committee, this evidence is  
probably hearsay. Tshwere's name was not  
mentioned by Nduba, NOR was Nduba asked  
to identify those maps as being the ones  
referred to. P.87.L.5.-P.88.L.31
- (f) He referred to certain 'recruits' who had  
been arrested.This is probably hearsay, but  
seems to be of little importance. P.91. L. 9 - 26.
- (g) He also identifies names on the Further  
Particulars (agents & recruits) as being  
members of A.N.C..This is probably hearsay,  
but is also of little importance. P.91.L.27-P.95.L.31



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