

IN THE SUPREME COURT OF SOUTH AFRICA
(TRANSVAAL PROVINCIAL DIVISION)

CASE NUMBER CC.431/77.

PRETORIA,
24th FEBRUARY, 1978.

THE STATE VERSUS:

MOSIMA GABRIEL SEXWALE AND
ELEVEN OTHERS.

VOLUME 37

(Pages 1745 - 1763).

THE COURT RESUMES ON THE 24th FEBRUARY, 1978.

BY THE COURT: Mr. Gey van Pittius, before you start I just want to put this on record. Yesterday we looked at EXHIBIT 70. I have now gone through this Exhibit 70, and on page 1066 of the record you handed in Exhibits 70(i) to (viii). Now I will tell you what I have got and see whether that is correct. Exhibit 70(i) is a Hire Purchase Agreement in respect of a car registration TJ 367568?

MR. VAN PITTIUS: I am sorry to interrupt Your Lordship ... (intervention). (10)

BY THE COURT: No, I have my numbers wrong. At any rate, let's put it on record that Exhibit 70(i) is this book called Band Wagon?

MR. VAN PITTIUS: Yes.

BY THE COURT: Exhibit 70(ii) is this contract to which I have just referred?

MR. VAN PITTIUS: Yes.

BY THE COURT: Exhibit 70(iii) is a contract in respect of a registration TJ 323510?

MR. VAN PITTIUS: That is right. (20)

BY THE COURT: Attached to that I've got six receipts issued by Lindsay Saker Motors, Highlands North, as amounts received from Mr. Joseph Tseto, Mr. J. Tseto, Mr. J. Tseto, Mr. J. Tseto, J. Tseto and Joseph Tseto. That concludes 70(iii).

In Exhibit 70(iv) there is an envelope addressed to M. Ramokgadi and it contains a pamphlet Human Rights Committee.

MR. VAN PITTIUS: That is correct, it is dated 7.10.76.

BY THE COURT: It is dated the 7th of October, 1976. Then Exhibit 70(v) is an envelope R. Ramokgadi and it has got a pamphlet Human Rights Committee again. Then Exhibit 70(vi) is an envelope C. Saron, there is a letter and contract of (3)

sale apparently of a Fairmont motor car?

MR. VAN PITTIUS: Yes, My Lord.

BY THE COURT: Then Exhibit 70(vii) is an envelope with a German stamp on it?

MR. VAN PITTIUS: Yes, this one?

BY THE COURT: It has a stamp on it, Zurich, apparently in Germany. Inside that is an envelope addressed to Mr. M. Ramokgad that is a white one, and inside that is a registration certificate from the Post Office as well as eight R5 postal orders. The first one is made payable to Michael Dingake, the second (10) one is made payable to Johannes Seleke, the third one is made payable to Nelson Mandela and the others are all blank. Then Exhibit 70(viii) is this letter by "Whitey". Have I got it correct?

MR. VAN PITTIUS: That is quite correct, yes, and the Band Wagon of course has also been ...(pause).

BY THE COURT: And the Band Wagon is also here.

FURTHER DISCUSSION IN REGARD TO THE EXHIBIT 70(i) to (viii).

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MR. VAN PITTIUS: My Lord, then we had the list of Further Admissions typed whereof I would like to hand three to the court for Your Lordship and the Learned Assessors. I also showed it to my learned friends and they agreed with that. I will read it now, My Lord. (20)

"FURTHER ADMISSIONS DATED THE 24th FEBRUARY, 1978.

1. On 31st December 1976, Col. S.D. Booysen received the following exhibits:

(a) From Major Burger, Exhibit 34; a rusty tin."

My Lord, those exhibits have already ... (Court intervenes)

BY THE COURT: I remember that exhibit, that one was sort of pressed together. (30)

MR. VAN PITTIUS:/...

MR. VAN PITTIUS: Yes, My Lord, that is correct. Then:

"(b) From Lt. Greyling, Exhibit 26; a blue plastic bucket." -

That is the one with the white lid on top, My Lord.

"(c) From Lt. De Waal, Exhibit 56; a reference book." -

Perhaps we should just show that to the court, that has already been handed in.

BY THE COURT: Yes, I remember where it fits in.

MR. VAN PITTIUS (Continues):

"On 2nd January 1977 at 5.15 a.m. Col. Booysen received (10) Exhibits 36 to 47 from Lt. De Waal." -

My Lord, the witness De Waal has already testified about them.

"All five machine pistols were loaded with bullets in the barrel. The number of bullets in each varied from 18 to 20. The Tokarev pistol was not loaded, but there were 7 bullets in the magazine.

On 3rd January 1977, Col. Booysen received Exhibits 48 to 51 from Lt. De Waal." -

My Lord, they were also handed in. I do not ... (Court intervenes). (20)

BY THE COURT: Let me just see again what it was? At any rate, we can come back to them later on.

MR. VAN PITTIUS: "On 5th or 6th January 1977, Col. Booysen received Exhibits 52 to 55 from Lt. De Waal. Exhibit 52 had one bullet in the barrel and 20 in the magazine. It was loaded and ready to fire. Exhibit 53 was loaded with one bullet in the barrel and 7 in the magazine.

On 10th January 1977, Col. Booysen received Exhibit 20 from Sergeant Zeelie i.e. one gold and one copper ring." -

It has already been handed in, My Lord.

"On 17th January 1977, Col. Booysen took possession of (30)

Exhibit/...

Exhibit 72, a pair of black shoes which accused no.1 was wearing at the time." -

I hand it to the court, My Lord.

"During June 1977, at the request of Lt. Du Preez, Col. Booysen took possession of Exhibit 78(1) to (5)," - those are the exhibits that Lt. Du Preez referred to yesterday, My Lord - "at the Magistrate's Court, Johannesburg, and handed it to Lt. Du Preez.

On 31st December 1976, accused no.1 was brought to Col. Booysen who held an interview with him. Accused no.1 (10) said he would show Col. Booysen where the event at Bordergate occurred.

On 8th February 1977, accused no.1 went with Col. Booysen to the Bordergate border post. In the vicinity of Bordergate he pointed out the following." -

My Lord, now we refer to EXHIBIT 21, the photo album.

BY THE COURT: Yes, I know they are photos now.

MR. VAN PITTIUS (Continues):

(a) An open gate 3 kilometers from the border post
(Photograph 12) .." - (20)

My Lord, these are new photographs in that album.

BY THE COURT: They have not been handed in before?

MR. VAN PITTIUS: No, My Lord. I think Your Lordship should perhaps ...?

BY THE COURT: Exhibit 21, photograph no.12. No, we have looked at this.

MR. VAN PITTIUS: Yes, photograph no.12 is an old one, the other ones thereafter are new ones. Then:

"(b) A tree approximately 150 metres from the road." -
That is photograph 21 in Exhibit 21. "A tree approximately (30
150 metres from the road. The tree is marked A on
(Photograph 21/...

(Photograph 21 in Exhibit 21).

(c) A point in the road (Photographs 11 and 22 in Exhibit 21); six kilometres from the open gate."

BY THE COURT: Is that accused no.1 posing on that photograph?

MR. VAN PITTIUS: Yes, My Lord. Those are photos 11 and 22.

"On 1st March 1977, accused no.1 pointed out to Col. Booysen a room in the house at 79 Mkize Street, Mofolo North, Soweto."

BY THE COURT: Let me just get this, 79 Mkize Street, I don't know where that fits into the picture. I haven't got that (10) name in my mind?

MR. VAN PITTIUS: No, there isn't evidence to that effect.

Continues:

"2. At about 3.50 a.m. on 31st December 1976, Warrant Officer Van Niekerk went to 124, 6th Avenue, Alexandra Township, as part of a group of policemen under the command of Captain Mahoney.

In a bedroom at the back of the house, Warrant Officer Van Niekerk found Mosima Gabriel Sexwale (accused no.1) standing, dressed only in his trousers. (20)

When asked who he was, accused no.1 said that he was Solomon Khumalo, that he came from Newcastle where he had a butchery, and that he had been in Johannesburg for three weeks. When Warrant Officer Van Niekerk demanded his reference book he produced Exhibit 57" .. - My Lord, that has already been handed in .. "a reference book in the name of Batsoba Solomon Khumalo." - I show it to the court, My Lord.. - "but bearing accused no.1's photograph".

BY THE COURT: I remember when we dealt with that he said he was a much thinner man. Yes, I remember that. (30)

MR. VAN PITTIUS: "Warrant Officer Van Niekerk then arrested accused /...

accused no.1.

3. On Monday 7th February 1977, Lt. P.T. Venter was in command at an identity parade that was held at about 2 p.m. at the Rob Ferreira Hospital, Nelspruit, in an empty ward. Lt. Venter recorded the proceedings at the identity parade on Form SAP. 329, which constitutes Exhibit 22." ...

I hand it over to the court, My Lord.

BY THE COURT: Yes, that is the formal document. I know that document. Yes?

MR. VAN PITTIUS (Continues): "It is admitted that the (10) identification parade was properly carried out.

4. On the 30th November 1976, at 7.30 a.m. Jackson Makushe, a sergeant in the South African Police stationed at Bordergate was driving towards the Bordergate. When he was still 3 kilometres away he noticed 3 persons sitting on a fence on the western side of the road. Another person stood on the lefthand side of the road looking in an easterly direction. These persons looked away when Sergeant Makushe looked at them. They had luggage with them.

Upon reaching the Bordergate Sergeant Makushe made a report (20) to Constable Brits who set off in a Landrover with Sergeant Khoza. Barely five minutes later they returned in a yellow Combi with a white roof. They were both injured. Sergeant Makushe took them to the doctor in Komatipoort. They were transported in the yellow Combi which was driven by Mr. Shabalala (Exhibit F) who had previously passed the Bordergate from Swaziland to Komatipoort. Photo 12, Exhibit 21, is the place where Sergeant Makushe saw the four people." -

Photo 12, Exhibit 21 has already been handed in, My Lord.

"5. During November 1976, Constable C.F. de Lange was (30) stationed at the Bordergate Border Post as a passport control officer. /...

officer.

At about 8.05 a.m. on 30th November 1976, an African driving a Combi passed through the Border Post from Swaziland in the direction of Komatipoort.

After a short while he returned, blowing the hooter of his Combi. Constable de Lange found Sergeant Khoza sitting near to the driver and Constable Brits lying on the back seat. Sergeant Khoza was wounded in the arm and Constable Brits was wounded in the arm and leg.

Constable de Lange then rode in the Combi to the district (10) surgeon in Komatipoort, together with the driver, Khoza and Brits.

At Komatipoort, Constable de Lange took the driver's particulars which were as follows:

Name: Phineas Tshabalala.
Age: 49 Years.
Reference Book: Number 25532990 issued at Brakpan.
Address: 708 Sandwana Street, Brakpan Location.
Vehicle: 1976 Volkswagen Combi, TJ.323510.

Exhibit F is a photograph of the driver." - (20)

My Lord, Exhibit F has already been handed in.

"6. About a month after the November 1976 Bordergate incident, Nora Mapanga found a bag lying in the grass near where the incident took place.

The bag was red in colour and spotted. The zip fastener was open and Mrs. Mapanga saw papers lying inside the bag.

Mrs. Mapanga then went to the border post to report the matter and later returned with the border officials to the place where she had found the bag and pointed it out.

Photograph 17 in Exhibit 21 shows the bag lying in the place (30) where Mrs. Mapanga found it." -

My Lord, /...

My Lord, the photograph 17, Warrant Officer Van Antwerpen's evidence deals with that.

Nora Mapanga identified the bag to Warrant Officer Van Antwerpen at the place shown in Photograph 17 in Exhibit 21.

7. On Monday 3rd January 1977, Constable J.G. Raath, Sergeant M. Modipa, Sergeant Mashigo, Sergeant Mabunda and Constable P. Modipa went at about 8 p.m. to a village in Apel, Sekhukhuniland.

Raath and P. Modipa waited outside the village and M. Modipa, Mashigo and Mabunda went into the village to the house of (10) Petrus Nchabeleng (accused no.8).

In the yard in front of the house Sergeant Modipa found Naledi Tsiki, accused no.2, who identified himself as "Chris". Sergeant Modipa took accused no.2 to Constable Raath.

At the house of accused no.8 on a bench, Sergeant Modipa found a blue denim jacket and a portable radio (Exhibit 102)."

I show it to the court, My Lord.

BY THE COURT: Is it an ordinary portable radio?

MR. VAN PITTIUS: There is a portable radio and a blue denim jacket inside, My Lord. I show it to the court, Exhibit 102(20)

Continues: "He took these objects to Constable Raath.

In the jacket, Constable Raath found the following:

A reference book in the name of Patrick Mandla Dumeni Magagula and bearing a picture of accused no.2, a R10 note" ... -

This all constitutes Exhibit 54, My Lord. I hand it to the court.

".. and a hand grenade which was wrapped up in wrapping-paper and it is admitted that all these items belonged to accused no.2.

8. On 26th October 1976, Detective Sergeant Snyders went to the railway line near Dikgale where he took photographs (30) (Exhibit 11, nos. 1 - 8) at the scene of two explosions

on the railway line as well as of the scene where the explosion did not take place. (These places are the same as those testified to by Mr. Busby). Photos no. 1 - 3 on Exhibit 11 show the damaged sleeper at kilometer distance 330,25; photos no.4 - 5 show the place where the charge had been placed and found, but where the explosion did not take place; photos no.6 - 8 show the other place of explosion where the inside of the flange of the lefthand leg of the track was blown out in a halfmoon shape.

On the 18th January 1977 he returned to the same scene together with Captain Thomas, Warrant Officer Van Jaarsveld and accused no.2. He, thereafter, took photographs (Exhibit 11, nos. 9 - 13) of the pointing out by accused no.2 of two different places .." (Court intervenes). (10)

BY THE COURT: That evidence was read into the record?

MR. VAN PITTIUS: My Lord, Captain Thomas' evidence was read into the record.

BY THE COURT: That is the place where I got so annoyed because he was talking, taking such a long time to tell me what was really a very simple matter? (20)

MR. VAN PITTIUS: That is quite correct. That is covered by the admissions.

"He thereafter took photographs (Exhibit 11, nos. 9 - 13) of the pointing out by accused no.2 of two different places at the railway line. It is admitted that the one spot that was pointed out by accused no.2 was exactly the same spot where the tins and charge had been found previously, but where there was no damage to the railway line (photos no. 9 -11) and that the other spot that was pointed out was exactly the same spot where the concrete sleeper had been damaged (photos no.12 - 13 on Exhibit 11). Accused no.2 is portrayed/...

(30)

portrayed on photos. 9 - 13 in the company of the policemen as handcuffed and dressed in dark clothing."

MR. VAN PITTIUS: My Lord, I do not know whether Your Lordship will want to see it?

BY THE COURT: No, I have got a very clear recollection of that. I still remember when it was read out he was telling me how he sat there, and he was more concerned apparently with his own posing on the photograph than taking the photograph of the accused. Yes, I remember than clearly.

MR. VAN PITTIUS: Then I go over to point 9, My Lord. (10)

"9. The fingerprints of accused no.2 were found on a tin which was found by Col. Strydom underneath the railway line at a place 300 metres east of Dikgale Railway Station. The tin when found contained plastic explosives, a detonator attached to electric wire which was connected to a battery and a switch made of tin. The railway line was undamaged at this place.

10. On the 26th October 1976, Hudson Tema found two wires sticking out from under a railway sleeper. Investigation revealed the wires were attached to a red cartridge which (20) together with a tin lay under an undamaged railway line near Dikgale Station.

On 26th October 1976 Ephraim Ramphele petrolled another stretch of railway line between Solomondale and Dikgale. He found wires lying under the railway line. The wires were attached to two tins. The railway line was intact. At another spot the witness observed a hole under the railway line and that a piece of rail was broken off. The nuts of the sleepers were loose.

Exhibit 1 is in the condition Ephraim Ramphele found it." - (30)

My Lord, that has already been handed in.

"Exhibit 3 is the steel which broke off the railway line.

On the 25th the line had been in order.

On the 25th of October 1976, George Chabalala patrolled a stretch of railway line between Munnik and Dikgale. The line was in order. On 26th October 1976 he found a spot marked 330 kms. where screws which go into the sleeper had been removed. The sleeper was damaged as in Exhibit 2." -

That has also been handed in, My Lord.

"Exhibit 4 was in the condition in which it appears before the court."

It was also handed in before the court. Then: (10)

"11. The fingerprints of accused no.11, Jacob Seathlolo, were found on a glycerine bottle which forms part of Exhibit 33" -

My Lord, Exhibit 33 has been handed over already, that is part of Exhibit 33 and the glycerine bottle there whereon the fingerprints were found. Can you just show Exhibit 33 to the court colonel.

BY THE COURT: Where was Exhibit 33 found?

MR. VAN PITTIUS: My Lord, that was found at Japie Nonyane's place. Then: (20)

"The fingerprints of accused no.3, Lele Jacob Motaung, were found on a tin, Exhibit 67," .. - which I show to the court. I show it to the court, My Lord.

"... which formed part of the contents of a blue bucket, Exhibit 26, found at 124, 7th Avenue, Alexandra, by Major Burger, Lieutenants De Waal and Greyling. The fingerprints of accused no.2, Naledi Tsiki, were found on a tin, Exhibit 68" ... which I show to the court .. "... which also formed part of the contents of the same blue bucket, Exhibit 26."

And I show the tin to the court, My Lord.

"12. On 31st December 1976, Jacob Motaung (accused no.3) (30)
pointed /...

pointed out to Colonel J.H. Gloy a certain house at Jonathan, in the district of Odi.

Colonel Gloy entered the house and in a wardrobe in the bedroom he found the articles and documents constituting Exhibits 60 and 61." -

I show it to the court, My Lord.

BY THE COURT: Let me just have a look. Mr. Gey van Pittius, if I now remember about this place Jonathan, if it is true, I am not sure at the moment it is true, where it is alleged that they went and ultimately where they found a bald man? (10)
Is this now this place?

MR. VAN PITTIUS: My Lord, I do not think the address was specifically - it was said they went to a house in Jonathan.

THE COURT AND MR. VAN PITTIUS DISCUSS THE EVIDENCE ON THIS POINT.

MR. VAN PITTIUS: My Lord, I show Exhibit 61, also.

BY THE COURT: What are these?

MR. VAN PITTIUS: They are all books, My Lord. I think we should just read on whilst you have those books before you.

BY THE COURT: Where were those books found? (20)

MR. VAN PITTIUS: Colonel Gloy entered the house and in a wardrobe in the bedroom he found the articles and documents.

BY THE COURT: Is that at Jonathan?

MR. VAN PITTIUS: Yes, constituting Exhibits 60 and 61.

Continues: "The distribution of the following three books, forming part of Exhibit 61, has been prohibited:

"A dying Colonialism"; "The War of the Flea", "No Easy Walk to Freedom". The first two of these books were at certain times available in bookshops in South Africa. None of the other publications are banned." .. - That is the other part(30) of Exhibit 61.

"Colonel /...

"Colonel Gloy opened one sealed "Punch" soap powder packet forming part of Exhibit 60 and found that it contained a magazine with bullets in it. He then took the articles back to this office where he opened them and found the following:

- (a) One "Punch" soap powder packet containing 33 loose ,32 bullets amongst the soap powder; ... " -
My Lord, that is all part of Exhibit 60.
- "(b) The other "Punch" soap powder packet contained two magazines, each was fully loaded and contained ten bullets; (10)
- (c) The "Cold Power" soap powder packet contained 31 loose ,32 bullets;
- (d) In the small cardboard box containing a plastic packet of sulphur, were two magazines each containing 10 bullets;
- (e) In the flour packet, amongst the flour, were three handgrenade detonators." ...

Now My Lord, Exhibit 64, that is the photo album, I show it to the court. (20)

"Photographs 20, 21, 22, 23, 24 and 25 in Exhibit 64 are photographs of Exhibit 60. Photo no.20 shows the handgrenade detonators enwrapped in grease paper. Photo no.21 shows the handgrenade detonators already opened. Photo no.22 shows the three soap powder boxes as well as the carton box containing sulphur. Photo no.23 shows the articles removed from their boxes - the two magazines are still wrapped in blue plastic paper. Photo no.24 shows the contents of the carton box wherein the sulphur was wherein ..." ... (Court intervenes).

BY THE COURT: Was this all found at this house pointed out (30)

by accused no.3? Somewhere in Jonathan?

MR. VAN PITTIUS: /...

MR. VAN PITTIUS: Yes, My Lord. In Jonathan.

"Photograph no.24 shows the contents of the carton box where-
in the sulphur was wherein the two magazines enwrapped in
yellow plastic paper were. Photo no.25 shows cartridges
unpacked from their containers. Colonel Gloy handed the
contents of Exhibit 60 to Major Van Eeden on 10th January
1977.

13. On the 4th of January 1977 Lieutenant N.S. Coetzee
went to a place called Batlokwa which lies 50 to 60 kms.
North-east of Pietersburg and in the Lebowa Homeland. At a (10)
building site he came across an empty red Fairmont motorcar
(registration no. TJ.149328) which had a black roof. He
observed an old man called Solly, a woman called Mahlangu
and accused no.6 on the site. No.6 admitted he was using the
Fairmont and introduced himself as Martin Ramokgadi. Lt.
Coetzee searched him and found documents in the left top
pocket of his safari jacket and in the back right hand
pocket of his trousers. Among these documents were a letter
that spoke about night schools and which was signed by Whitey
(Exhibit 70(viii)), a list of names which included Mandela (20)
and Sisulu and a receipt for a plot in Sishego Township,
Pietersburg. Lt. Coetzee asked accused no.6 to explain
his possession of the documents. Accused no.6 never replied.
Lt. Coetzee confiscated the documents and arrested all three
persons.

Lt. Coetzee handed over the documents and the three arrested
persons to Lt. De Waal.

14. On 22nd February 1977, accompanied by Lt. Du Plooy and
Constable Mose, Lt. Calitz searched the home of Joe Gqabi
(accused no.7) at 519 Mofolo, Soweto. (30)

Accused no.7 and his wife, Aurelia Qgabi, were present during
this/...

this search.

In the main bedroom of accused no.7's house, Lt. Calitz found and took possession of the articles and documents constituting Exhibit 62." -

I hand it over to the court, My Lord. I want to just read on, My Lord, while you have it there:

"The distribution of item 62(xvi), Bandwagon No.6, September 1975 was prohibited by notice in Government Gazette number 2121 dated 7th November 1975." -

And there are also the other documents, Your Lordship. (10)
I don't know whether Your Lordship would like to have a look at them.

BY THE COURT: I want to just have a look at them so that I know exactly what you have got. What are all these documents? I just want to see whether we have a complete list. Exhibit 62(i) is a document "South Africa Heroes Day" 16 December 1976, Speech delivered by Eli Weinberg; (ii)(a) Statement by David Rabkin, five pages?

MR. VAN PITTIUS: Yes, My Lord.

BY THE COURT: Exhibit 62(ii)(b), Jeremy Cronin, five pages.(20)
Exhibit 62(iii), Sandton(?) African Library "In the Eye of the Storm".

MR. VAN PITTIUS: Written by Basil Davidson.

BY THE COURT: Inside here there is something.

MR. VAN PITTIUS: Yes, that was inside the book, as far as I know, My Lord.

BY THE COURT: Inside here is a document with the photograph of a person. The name is Kgoana Johnnjadi(?). (Away from the microphone). The next one is 62(iv), it is the document that we have already had a look at, "Dear Comrades". 62(v) (30) is an envelope containing ... (pause).

MR. VAN PITTIUS:/...

MR. VAN PITTIUS: My Lord, those are telex reports, copies of telex reports.

BY THE COURT: They have got quite a number of pages. In any way to sum up, they are copies of telex reports.

MR. VAN PITTIUS: They are copies of telex reports compiled by Margaret Smith.

BY THE COURT: There are about sixteen pages of this. Then 62(vi) London office message for Sunday Times.

MR. VAN PITTIUS: That is also a telex report.

BY THE COURT: That is a yellow document, one page. Then 62(vii)⁽¹⁰⁾, a statement from the Sisulu family, one page. Then 62(viii)(a), the one at the top is not all that clear ... (intervention).

MR. VAN PITTIUS: They are documents titled Ché Quevara. At any rate, that is a big document, four pages. Then 62(viii)(b), Ivan Illich "Not Back to Nature", that is a relatively new ..(inaudible).. four pages. 62(viii)(c) Baader Meinhof trial, one page. 62(viii)(d) Angola's Riches, a Threat to Independence, by Ford somebody, in De Nuwe Amsterdam, .. how many more, Mr. Van Pittius? I want to go through them and see that we have got it correctly. Then 62(viii)(e) Mao's (20) Offensive against the New Classes?

MR. VAN PITTIUS: And then there is one more, Your Lordship.

BY THE COURT: 62(viii)(f) Paulo Freire, four pages. And then Exhibit 62(ix), Liberation of the Woman is a prerequisite for the Revolution. And 62(x) is a document four pages.

MR. VAN PITTIUS: They are statements made.

BY THE COURT: Exhibit 62(xi), Robert Mabuana Resha, it has got a photograph on the first page and is a booklet apparently. Exhibit 62(xii), also a booklet "Where are we Going" and a cutting from some newspaper "Hoš pos vir ANC man". Then (30) 62(xiii), there is a family or a lot of people on the front page /...

page, and I see "with paternal greetings from Paul and Stone".
Nkosi Sikulelo Afrika. Then there is some writing here.

MR. VAN PITTIUS: It is a card like a Christmas card or something like that.

BY THE COURT: And then Exhibit 62(xiv), "Organisation of African Unity", ten pages. Then 62 (xv) is just a letter, air letter. It is addressed to Mr. J. Gqabi. And 62(xvi) there is an envelope, Mr. Joe Gqabi, with an address. Inside there is a Bandwagon.

MR. VAN PITTIUS: That is No.6 of September 1975, My Lord. (10)

I think I have already read out that the distribution of that Bandwagon was prohibited. I think I dealt with that.
Continues reading:

"15. Annexure N" - that is the annexure to the indictment - "is the same ^{as} the pamphlet typed by accused no.12 and given to Tryphinah Mohale and Sipho, a black male. Accused no.12 used her typewriter, Exhibit 73" ..- My Lord, I show it to the court ... - ".. to type this pamphlet. The pamphlet was given to Tryphinah Mohale by her neighbour Paulina Moletsane who in turn received it from her neighbour Constance(20) Buthelezi.

Exhibit 76 is a letter written by accused no.12 while awaiting trial in detention." . - I hand it to the court, My Lord.
- "The letter was confiscated by Wardress Yvonne Faasen."

I show to the court Exhibit 76, My Lord. I do not think it is necessary to read it out.

BY THE COURT: No, just hand it in.

MR. VAN PITTIUS: Then I go over to point 16:

"16. At about 11.40 p.m. on 21st August 1976, Constable David Lipschitz was on duty in Commissioner Street, Johannesburg. Constable Lipschitz saw a black man handing out pamphlets and/...

(30)

and chased him and arrested him.

While he was being chased, the black man dropped approximately 25 pamphlets similar to Annexure N to the Indictment.

Constable Lipschitz handed the pamphlets which had been dropped to the staff on duty at John Vorster Square charge office on 21st August 1976.

BY THE COURT: I think the point here is this is no indication that this originated from whom. It could have been the original one which somebody else did which had nothing to do with accused no.12. At any rate ..(intervention). (10)

MR. VAN PITTIUS: It is similar, those are similar pamphlets. My Lord, that completes the further admissions then.

BY THE COURT: Is that in order, Mr. Chaskalson?

MR. CHASKALSON: That is correct, My Lord. We will save some time on that.

BY THE COURT: Yes, it will save a lot of time and I think we must express our gratitude to Counsel for having been so co-operative.

- - - - -

MR. DONEN: My Lord, six of the witnesses whom we called before His Lordship the late Davidson J. are unable to be found. One of them is beyond the jurisdiction of this court, and cannot be compelled to be brought before the court. Now these are witnesses whom we wish to call, and although we do not wish to take advantage of His Lordship's death, we therefore would like this evidence to go in. I therefore would like to make an application in terms of Section 243(3) of the Criminal Procedure Act, to put the evidence which was given at the former trial in at this trial. (20)

MR. DONEN ADDRESSES THE COURT FURTHER IN REGARD TO THIS APPLICATION.

MR. CHASKALSON ADDRESSES THE COURT IN REPLY.

THE ASSESSORS ARE ASKED TO LEAVE THE COURT.

FURTHER DISCUSSION HELD IN REGARD TO THE APPLICATION BY THE
STATE.

COURT ADJOURNS.

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**SOUTH AFRICAN INSTITUTE OF RACE RELATIONS, Security trials Court
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