

Exhibit "DD".

A photostatic copy of a document headed "A call to P.A.C. Leaders" found in the possession of Abe Kgare by D/S Posthumus on the 9th of September, 1960. This document falls within the scope of Section 12(4)(c) and from the contents thereof one can come to no other conclusion but that the P.A.C. remained active after it was banned on the 8th of April, 1960. Of particular importance and to substantiate my argument I wish to quote the following extracts from this document:-

"The Emergency Laws have outlawed P.A.C. and sent most of our militants to prison It is all quiet on the African National Front. But it is the silence and inactivity before a gathering storm. It is the breathing space before P.A.C. continues its campaign for:-

- (1) The total abolition of passes;
- (2) A minimum wage of £8.3.4d per week; and
- (3) The release of Sobukwe and other P.A.C. Leaders.

The first task is to consolidate the underground organisation of the P.A.C. This means that each region, or branch, must resort to cell organisation The final decisive phase will be a call by P.A.C., for nation wide Mass Action, with P.A.C. membership constituting a militant spearhead or vanguard. The object will be a total abolition of the pass laws".

I reiterate, this document proves conclusively that the P.A.C. did remain active after it was banned.

Exhibit "EE".

An original letter dated the 8th August, 1960, and addressed to "Sons of Africa" and signed by "Son of Africa". This letter was found in the possession of the accused by D/S Posthumus on the 20th September, 1960. Admissible under Section 12(4)(a).

Exhibit "FF"

An original letter dated the 7th September, 1960, addressed to Mr. Benson Dyantyi by Patrick Duncan and found in the possession of the accused by D/S Posthumus on the 20th September, 1960. Admissible in terms of Section 12(4)(a).

Exhibit "GG"

This is the original of Exhibit "FF".

Exhibit "HH".

An original letter addressed to Z.B. Molete and signed by Chief A.J. Lutuli and others. This letter found in the possession of the accused by B/D/S Gladwell Ngcai on the 17th of December, 1960, and admissible under Section 12(4)(a).

Exhibit "JJ".

An original Agenda of the "Consultative Conference of African Leaders" held on the 16th and 17th December, 1960, at the Donaldson Community Centre, Orlando in the district of Johannesburg. This Agenda was found in the possession of the accused by the same B/D/Sergeant on the same date mentioned when dealing with Exhibit "HH". The accused, Z.B. Molete, is mentioned on page 3 to address Conference

on "The Struggle against the Pass Laws". This document falls within the scope of Section 12(4)(a).

Exhibit "KK".

A photostatic copy of a pamphlet headed "The Dawn has come". Handed in by D/S Wessels of Vereeniging. He came in possession of this pamphlet on the 21st February, 1960, when these pamphlets were distributed in the Vereeniging and Evaton Locations. On the face of it, it has been issued by the P.A.C. and therefore admissible against the accused by virtue of Section 12(4)(c).

Exhibit "LL"

An original pamphlet headed "Passes must go Now" which was also distributed in the Vereeniging and Evaton Locations during March, 1960. Admissible under Section 12(4)(c).

Exhibit "MM".

An original pamphlet "Alerting the Nation" found under the same circumstances as the previous exhibit. Admissible under Section 12(4)(c).

Exhibit "NN"

An original pamphlet "Calling the Nation" found by D/S Wessels during the night of 17/18 March, 1960, in the Vereeniging and Evaton Locations. Admissible in terms of Section 12(4)(c).

Exhibit "OO".

An original lapel badge "Africa for Africans P.A.C." found in the house of the accused on the 24th March, 1960. Admissible in terms of Section 12(4)(a) and (c).

Exhibit "PP"

Four folio sheets found in the house of the accused on the 25th February, 1961, by D/S Wessels. Admissible in terms of Section 12(4)(a).

Exhibit "QQ".

Five pieces of paper with names and addresses written on it. Found in the house of the accused. Admissible under Section 12(4)(a).

Exhibit "RR".

A roneed copy of the Minutes of a meeting of the Defence and Aid Fund found in the house of accused. Admissible under Section 12(4)(a).

Exhibit "SS".

A photograph taken at Evaton Police Station on the 21st March, 1960. On this day about 20,000 bantu marched to the Police Station to give themselves up when they demonstrated against the Pass Laws. Admissible under the common principles relating to the admissibility of documents.

The person marked 3 on the photograph is the accused busy addressing the crowd. He was identified by Lieut. van Eeden.

Exhibit "TT".

A photostatic copy of "The Africanist" which was at one time the official organ of the P.A.C. Admissible in terms of the provisions of Section 12(4)(c). This publication was found in the house of Robert Sobukwe on the 21st March, 1960 by D/S Botes. It is therefore also

admissible under Section 12(4)(a). It is common cause that Robert Sobukwe was the President of the P.A.C.

Exhibit "UU".

A photostatic copy of "The Africanist" May/June, 1959 issue found in the room of one Abraham Mogale on the 24th March, 1960, by D/S Swart. Admissible under Section 12(4)(c). On page 15 of this exhibit we find the names of the (a) First National Executive Committee; amongst others:-

President - Mr. R.M. Sobukwe - Johannesburg.

National Secretary - Mr. P.K. Laballo - Johannesburg.

Treasurer General - Mr. A.B. Ngvono - Durban.

(b) National Executive Committee Members:-

Mr. C.J. Fazzie - East London.

Mr. M.G. Maboza - Port Elizabeth, and

(c) the names and portfolios of the Secretariat:-

Mr. Z.B. Molete: Publicity and Information - Winburg O.P.S.

Mr. H.M.D. Hlatwayo: Finance and Economic Development - Durban.

Exhibit "VV".

A photostatic copy of a pamphlet headed "Passes must go Now" found also in the house of Abraham Mogale. Admissible under Section 12(4)(c).

Exhibit "WV".

This is the last exhibit and is a photostatic copy of page 15 of exhibit "UU" which was found in the room of Abraham Mogale. Admissible under Section 12(4)(c).

Having dealt with the exhibits and the admissibility thereof I now want to deal with the merits of the case.

For the State to succeed on the charges as framed I think it is necessary for the State to prove the following:-

1. The existance of the P.A.C. before banning.
2. Membership of the accused before banning.
3. The banning of the organisation.
4. The fact that the P.A.C. went underground.
5. The accused continued membership.

I shall now deal with the evidence under these headings:-

1. The existence of the P.A.C. before banning:

In this connection I refer the Court to Exhibits A, B, C, F, Q, R, X, Y, Z, AA, BB, CC, KK, LL, MM, NN, OO, TT, UU, VV and WW.

The Pan Africanist Congress was launched as the liberation movement of the African people at a convention held at the Communal Hall, Orlando, Johannesburg from the 4th to the 6th April, 1959 - Exhibit TT page 1.

Their aims and objects were the following:-

- (a) To unite and rally the African people into one national front on the basis of African Nationalism.
- (b) To fight for the overthrow of white domination and for the implementation and maintenance of the right of self-determination for the African people.
- (c) To work and strive for the establishment and maintenance of an Africanist Democratic Society recognising the primary of the material and spiritual interests of the human personality.
- (d) To promote the education, cultural and economic advancement of the African people.

(e) /....

(e) To promote the concept of the Federation of Southern Africa and Pan-Africanism by promoting unity among peoples of Africa - page 1, Exhibit X.

In Exhibit "UU", page 15, the names of the office-bearers or officers of the P.A.C. are mentioned to sit the following: (Only the names of those persons figuring in this case are mentioned).

A. First National Executive Committee:

1. President: Mr. R.M. Sobukwe - Johannesburg.
2. National Secretary: Mr. P.K. Leballo - Johannesburg.
3. Treasurer General: Mr. A.B. Ngcobo - Durban.

B. National Executive Committee Members:

1. Mr. C.J. Fazzie - East London.
2. Mr. M.G. Maboza - Port Elizabeth.

C. Secretariat and Portfolio:

1. Mr. Z.B. Molete: Publicity and Information - Winburg,
O.F.S.
2. Mr. H.W.D. Hlatswayo: Finance and Economic Development -
Durban.

The P.A.C. flag is a green background with a black map of Africa and a gold star in the North-West of Africa - page 2, Exhibit "AA".

Their mottos and slogans are:-

1. "S.S.S. Service, Sacrifice and Suffering" - Exhibit "AA", page 1 of the Disciplinary Code.
2. "Iwe Lethu-i-Afrika" (Translated "Our Country Africa"). This is apparent from quite a number of the exhibits with which I have already dealt with that is Exhibits A,B,C,BB,etc etc.
3. "No Bail, No Defence, No Fine" - Exhibits "BB" page 4, "LL", "MM", "NN", "TT", pages 2 and 10 and "VV".
4. "Africa for the Africans" - Exhibits "T" page 5, "OO", "SS" /...

"SS" and "UU" page 15.

5. "Positive and Final Action" - Exhibits "A", "B", "T" page 2, "BB" page 1, "DD", "LL", "MM", "KK", "TT" pages 7, 8 and 11 and "VV".
6. "The United States of Africa" - Exhibits "T" page 2, "AA" - the Disciplinary Code page 4, "BB" page 1 and 4, "TT" page 3 and "UU" page 15.

To achieve their aims and objects the P.A.C. decided to launch a campaign against the so-called pass laws. This they did by means of the distribution of pamphlets such as Exhibits A, B, C, KK, LL, MM, NN, and VV and the holding of meetings. Exhibit "NN" explains the nature of the campaign. I quote:

"This is the CALL the African people have been waiting for! It has come! On Monday the 21st March, 1960, we launch our positive, Decisive Campaign against the Pass laws in this countryIn every city, town and village, the men must leave their passes at home on Monday the 21st March, 1960. Under the local Leadership of the Pan Africanist Congress, the men will move to the chosen Police Station and there surrender themselves. The Leader will tell the Police: 'We all do not have passes. We will not carry passes again; millions of our people are arrested under the Pass Laws, so you had better arrest us all, Now'..... All men will go to jail under the slogan "No Bail, No Defence, No Fine".

Deut. van Eeden of Vereeniging testified that such a campaign was launched in the Evaton Location. On the 21st March, 1960 about 20,000 bantu marched to the Evaton Police Station where they surrendered themselves. The accused was one of the leaders and he was also one of the

persons who approached the witness. The witness also identified the accused on the photograph Exhibit "SS" which was taken at the time.

Lieut. Sauerman of Cape Town also told the Court that a similar march took place in Cape Town on the 25th March, 1960. There about 10,000 bantu marched to the Caledon Square Police Station. If I remember correctly D/S Wessels of Vereeniging also told the Court that a similar demonstration was held at Sharpville on the same day. What happened there is well known to the Court. The so-called "Sharpville Shootings" are also frequently referred to in the exhibits.

2. Membership of the accused before banning:

Section 12(1) of the Act provides that in any prosecution under this Act in which it is alleged that any person is or was a member or active supporter of any organisation, it is proved that he attended any meeting of that organisation, or has advocated, advised, defended or encouraged the promotion of its purposes he shall be presumed, until the contrary is proved, to be or to have been a member or active supporter of that organisation.

In this instance the State proved that the accused attended a F.A.C. meeting on the 13th March, 1960, in the Lady Selborne Location, Pretoria - E/D/C Enos Khumalo.

As I have already mentioned Lieut. van Beden of Vereeniging testified to the effect that the accused acted as spokesman at the Evaton demonstration on the 21st March, 1960.

I also again refer the Court to page 15 of "The

Africanist" Exhibit "UU", where the name of the accused is mentioned as the Secretary for Publicity and Information of the P.A.C., He was as such elected at the National Africanist Inaugural Convention held at the Communal Hall, Orlando, Johannesburg from the 4th to the 6th April, 1959.

I submit in the circumstances that there is conclusive proof of the fact that the accused was a member of the P.A.C. before this organisation was banned.

3. The banning of the Pan Africanist Congress:

On the 8th April, 1960, the State President, by Proclamation No.119 of 1960 promulgated in Government Gazette No.6414 declared the P.A.C. to be an unlawful organisation. By way of proclamation No.83 of 1961 promulgated in Government Gazette No.6653 the State President extended the duration of the first proclamation for a further twelve months. Both these proclamations were handed in during the trial.

4. The fact that the P.A.C. went underground :

In this connection I can only refer the Court to Exhibit "DD" - "A Call to P.A.C. Leaders" handed in by witness D/S Posthumus. I have already dealt with this exhibit and I submit that it is abundantly clear that the P.A.C. went underground after it was banned.

5. The Accused continued Membership :

Under this heading I must unfortunately again refer the Court to the exhibits found in the possession of the accused. For the Court to decide whether the accused contravened any of the statutory enactments mentioned when dealing with the charge sheet, I think one must of necessity make a careful study of the documents found in his possession. I shall therefore deal with them separately.

Exhibit H :

This is the "So-Called Freedom Calender" which was found in the house of the accused and in his presence by D/S Wessels of Vereeniging on the 15th of February, 1961. The organisation was of course banned on the 8th April, 1960.

This document is apparently a letter to "Contact" the mouthpiece of the Liberal Party. In this draft the author says :-

"As an African Nationalist and a Fan Africanist, I appreciate the fact that you wished, on your calender, "to put as many leaders as "we wanted" on the Freedom Calender While both Sobukwe and Paton stand for nonracial democracy, Sobukwe is, like the rest of the leaders of the continent of Africa committed to the ideal of a U. States
/of

of Afrika, to a rule of the Africans by the Africans, for the Africans. I wish to challenge the you - The Editor and the Liberal Party.

Let us go to the polls such as the Kenyons....to on who the popular leader is - Sobukwe will sweep the polls. I challenge contact to poll on "who must and will lead SA" - in fact who is acceptable to the African People as the.... Sobukwe will lead the polls."

D/S Atmore, the handwriting expert, testified that he examined this document and he came to the conclusion that the accused wrote it. So we therefore have the position that the accused admitted in his own handwriting that he is an African Nationalist and a Pan Africanist. We must therefore now investigate the meaning of these words. The Court will recall that the defence called an expert witness (Mr. Lewin) an African Studies and more particularly on the political administrative and legal side. Mr. Lewin gave us the meaning of various words and terms but before dealing with this evidence I would first like to refer the Court to the exhibits and to the sense in which these words are used by the P.A.C.

To me it is abundantly clear from a number of exhibits that the P.A.C. has regarded and referred to itself as African Nationalists and Pan Africanists and also Africanists.

I first of all refer the Court to the aims and objects of the P.A.C. as outlined in Exhibit "AA" which read:-

- (a) "To unite and rally the African people into one national front on the basis of African

/ Nationalism

Nationalism."

- (c) "To work and strive for the establishment and maintenance of an Africanist Democratic Society...."
- (e) "To promote the concept of the Federation of Southern Africa and Pan-Africanism by promoting unity among peoples of Africa."

The question now arises what members of the P.A.C. understood by these words and how they interpreted it. Suffice to quote the President and leader of the P.A.C. when delivering his opening address at the Africanist Inaugural Convention:-

"The question then arises, where does Afrika fit into this picture and where, particularly, do we African Nationalists, we Africanists in South Afrika, fit in? - page 4, Exhibit "UU". It is for that reason that we reject both apartheid and so-called multi-racialism as a solution of our socio-economic problems. We aim, politically, at government of the Africans by the Africans for the Africans..... We guarantee no minority rights, because we think in terms of individuals, not groups - page 8 exhibit "UU".... In South Africa the social force which upholds the material, intellectual and spiritual interests of the oppressed peoples is African Nationalism, and the social force which upholds the material, intellectual and spiritual interests of the oppressor is Herrenvolkism. These antithetical forces shall find their final reconciliation only in the synthesis of Africanism, in which the contradictory aspects shall have vanished and only the unifying factors which betray no instability shall remain. Africanism is a social force that upholds the material, intellectual and psiritual

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spiritual interests of the individual. In this way Africanism is the only logical and practical solution of the social question in Africa" - Exhibit "UU" - page 12.

Also in Exhibit "T" (Mafube) there is a multiplicity of references to African Nationalists and Pan Africanists. As I have already indicated it is my contention that the "Mafube" is a P.A.C. publication and issued by members of the P.A.C. The very first paragraph of the "Mafube" reads:-

"Sons and daughters of Africa - this is an historic hour. Behind us lies the glorious trial of the mighty Positive Action. Behind us lies the historic road from Sharpeville. You will recall the heroic deeds of the African Nationalists on Monday, 21st, March, 1960, and onwards. You will recall the positive action which shook South Africa to its foundations and rocked the world".

As I also have said, the evidence shows that these "heroic deeds" were actually performed by the members of the P.A.C. Who else then can these "African Nationalists" be but members of the P.A.C.

In view of the above quotations it is obvious that the P.A.C. frequently made use of the words "African Nationalists" and "Pan Africanists" and that they attached a particular meaning to these words. Or as Mr. Lewin testified when asked whether there are different types of African Nationalists:-

"Well, let us put it this way, that the term can be used in a variety of ways and with a variety of connotations or implications".

It is therefore my submission that the P.A.C.

/ regard

regard themselves as the only true or genuine African Nationalists or Pan Africanists or Africanists. I feel the Court can also take notice of the fact that in South Africa we have two political organisations to wit the P.A.C. and the A.N.C. This is of course also evident from Act No. 44 of 1950. We all know that Chief A.J. Luthuli was the leader of the now banned A.N.C. The reason for me mentioning this is because it may well be argued that the A.N.C. also regard themselves as African Nationalists or Pan Africanists or Africanists. This may perhaps be so but certainly not in the same sense as used by the P.A.C. To substantiate this I first of all refer the Court to Exhibit "T" (Mafube), which is nothing less than an open attack on the A.N.C. and a condemnation of the A.N.C. as multi-racialists as against the P.A.C. slogan "Afrika for the Africans"... In this regard I also refer the Court to Exhibit "CC" page 9, "Some reflections on Chief A.J. Luthuli". The heading of this contribution is self-explanatory and I can assure the Court that some of the reflections on Chief Luthuli are to my mind somewhat rude "reflections" Particularly so when the author deals with "African Nationalism" and "Pan Africanism" I quote:-

It is notable that during this formative period he (referring to Chief Luthuli) remained singularly immune to African Nationalism. He has maintained his Christian Liberalism with stubborn consistency. He knows nothing about Lembedism and far less about Africanism. In fact he has used African Nationalism as a mere catch-phrase. He has never really grasped its meaning and significance.... In the beginning

/it

it was multi-racialism. Nothing about nonracialism. Then P.A.C. came, and Chief Luthuli in a heroic endeavour to reconcile in himself all concepts that have even a faint chance to capture the imagination of the masses, made "Non" and "Multi" mean the same thing. Says he in the "Golden City Post" of October 11th, 1959:

'In congress we work for a united South Africa where the State shall be a free non-racial democracy'.

It is news that Congress now embraces the Pan Africanist stand on non-racialism. If Congress goes on at that rate one fears that it will end up by exclaiming 'Africa for the Africans, from Cape to Gairo, from Morocco to Madagascar.' But wait and hear what our Chief has to say in the "Post" of the 18th October, 1959. He talks of "The realisation of a united South Africa, and a South Africanism and an Africanism that embraces all racial groups'. Note the word "Africanism". It was actually used by Chief Albert John Luthuli!! We ask again, 'Is he confused or is he just being clever?'..... Is Chief the mere voice of other elements within the South African society? His tongue-twisting can perhaps be explained on the theory that our Chief is over-reaching himself."

This quotation makes it abundantly clear that the P.A.C. takes a very, very dim view of the fact that Chief A.J. Luthuli regards himself, or for that matter the A.N.C., as either African Nationalists or Pan Africanists. That is also the reason why when reviewing the 1960 Positive Action Campaign of the P.A.C. in "Mafube", page 5, reference is only made to Pan Africanists and African
"Nationalists."

Nationalists. In the same article the efforts of the A.N.C. are described as:-

"Through a series of unprogrammatic and very often meaningless actions the A.N.C. had bleached the struggle with futility and driven the people to despair. Failure after failure - even failure to learn from failures - had resulted in robbing the African people of confidence in themselves as a fighting force."

I have thus far endeavoured to show the Court how the P.A.C. interpreted the terms "African Nationalism" and "Pan Africanism." To me it appears they draw a distinct line between African Nationalism, Pan Africanism and Africanists. Is it mere coincidence that the name of Chief Luthuli's organisation was the "African National Congress" as against African Nationalism? Is it mere coincidence that the name of the organisation which we are dealing with is the Pan Africanist Congress? Why not the "Pan African Congress"? Is there a difference between "Pan African and"Pan Africanist". Why do members of the P.A.C. Prefer to call themselves "Africanists", What are "true" or "genuine" African Nationalists?

The Defence called an expert witness or specialist in African Studies more particularly on the political administrative and legal side- a Mr. Julius Lewin of the University of the Witwatersrand. Most of the above questions were put to him and I shall now deal with his evidence.

Mr. Lewin first of all defined the term "African Nationalism" as follows:

"African Nationalism is a state of mind. If a man is so described I would infer that he was interested
/in

in the assertion of African rights and the redress of African wrongs. I would infer that such a man would be interested in the desire or demand of freedom. I should infer too that an African Nationalist would be interested in claiming an equal status for its people with other peoples in the world in asserting their dignity in claiming that it should be respected by everyone else. Such a man may very well have a pride in being black. All sorts and conditions of men might claim or response to the description African Nationalist and the phrase is very widely used" - pages 3 and 4 of the typed record.

From the above it would appear that the A.N.C. for instance or for that matter any man in the street can call themselves African Nationalists. In this regard I again wish to refer to "Mafube" which is purported to have been issued by "African Nationalists" and in which the A.N.C. and the A.N.C. only is openly attacked. I quote from page 3 of the "Mafube" (Exhibit "T"):

"We loathe to have to cross swords with former members of the African National Congress for whom we have great regard as fellow oppressed (note not "fellow African Nationalists") no matter how misguided they are in their ways. But as African Nationalists to whom the nation looks for guidance in the struggle, we feel bound to intervene in their shoddy plans for public demonstrations on the eve of the declaration of the Republic of South Africa on May 31."

It would therefore appear that despite the fact that Mr. Lewin maintains that any bantu may call himself an African Nationalist the P.A.C. at least do not consider members of the A.N.C. as such. This is obvious

/from

from the last quotation.

Mr. Lewin next defined the term "Pan Africanism" as follows:

"Pan Africanism is essentially a movement of ideas and emotions. Pan Africanism has come to be used both by its protagonists and its antagonists as if it were a declaration of political principles. But is is not. The term has gained a very wide occurrency in the last 15 years or so" - page 5 of the record.

In this instance again it would appear as if any bantu in the street can call himself a Pan Africanist. What do we however find when examining the exhibits. It is obvious that when referring to the man in the street the word "African" is used. An African is obviously a bantu. That is also the contention of Mr. Lewin. I do not want to burden the record by referring to exhibits where the word "African" is used - suffice perhaps to refer to exhibit "X". Is the position in this country not perhaps that the term "Pan Africanism" is used "as if it were a declaration of political principles" - directly against to what Mr. Lewin said. Members of the P.A.C. certainly regard themselves as "Pan Africanists" or "Africanists" and not just "Africans". They certainly also take exception to other organisations and particularly the A.N.C. using the word "Africanist" or "Pan Africanis" - Exhibit "CC" the portion to which I have already dealt with.

When called upon to define the word "Africanist" Mr. Lewin was unable to do so. He said :-

"The word isn't used by social scientists.

From my own observation and information I can only say
/that

that the word has been employed in South Africa. But I am not a specialist on its usage in South Africa" - page 33 of the record.

In connection with the usage of this word I again wish to refer the Court to Exhibit "CC", page 9.

Mr. Lewin was then asked whether he made a study of political organisations in this country. He told us that some years ago he published an article on the A.N.C. in a British Journal. He did not however make a study of the P.A.C. He then said that he could give expert evidence on the A.N.C. up to the time that he took his studies which is ten years ago. The questions and answers which followed are in my submission so important that I would like to quote them verbatim:- (page 35 et seq)

Q: Are you perhaps in a position to tell us whether the A.N.C. also described themselves as African Nationalists?

A: Yes, I am sure that men in the ranks of the A.N.C., and in its higher ranks, would describe themselves by that term on occasions.

"Q": And as Pan Africanists?

A: No, I couldn't be sure about that. I can't as I stand here, recall that. That is a much more recent and obviously a somewhat narrower descriptive term than "Nationalist".

Q: And "Africanists"?

A: I don't recall hearing that word in connection with the A.N.C. that word comes into play after the break-away movement from the A.N.C. which occurred - if I remember rightly, late in 1958, when a new and rival organisation was formed about which this rival organisation

I am not well informed.

Q: That is the P.A.C.,

A: Yes.

Q: (By Court) So you would then positively state that the A.N.C. did employ the term "Africanist" as descriptive of themselves?

A: Not "Africanist" your Worship. Not "Africanist", definitely not."

To me this is a very interesting piece of testimony. Particularly in view of the fact that when this exhibit (Exhibit "H") was put to Mr. Lewin he said:-

"I notice that he says he is an African Nationalist and a Pan Africanist - perhaps confirming the point I made a minute ago, that there is a relation between the usage of the two terms. They might be used separately, they might be used in conjunction with each other, as he seems to be using them".

Yes, Mr. Lewin came to this conclusion after he told the Court that he could not define the word "Africanist" and after he tendered two well defined definitions of what is understood by African Nationalism and Pan Africanism.

To summarise I think I can put it that the Court is called upon to scrutinise this exhibit with a view to ascertain whether the accused when he wrote it, performed an act as an office-bearer officer or member of the P.A.C. or whether he took part in an activity of the P.A.C.

With the exception of perhaps the terms "African Nationalist" and "Pan Africanist" the document is self-explanatory. The Accused is obviously a pro-Mangaliso

/Sobukwe

Sobukwe man who is of course the President of the banned P.A.C. The accused openly attacks Allen Paton the National President of the Liberal Party and Chief A.J. Luthuli the President of the banned AN. C. He endorses the aims and objects of the P.A.C. and rejects any other ideologies.

In all the circumstances I submit with respect that when the accused wrote this document he regarded himself as a member of the P.A.C. and that after the banning of the organisation he continued to be a member of the P.A.C.

EXHIBIT "HH" :

This is the roneod letter addressed to the accused by Chief A.J. Luthuli and others inviting him to attend a Consultative Conference of African Leaders in Johannesburg on the 16th and 17th December.

This document was found in front of the accused on a table when the accused attended this Conference on the 17th of December, 1960. What is important when looking at this exhibit is the fact that the accused is referred to as an "African Leader, as a person whose views are respected by the African People."

EXHIBIT "JJ" :

The Agenda of this Conference also found on the table in front of the accused on the 17th December, 1960. On page 3 the name of the accused is mentioned. He was supposed to have addressed Conference on the 17th December, 1960, on "The Struggle against the Pass Laws".

EXHIBIT "J" :

A note book with notes. Now this is a very important exhibit. So much so that I wish to quote it in its entirety:-

"The Struggle of the African People for National Liberation is the Struggle against the Pass Laws.

Any and every S.A. Political organisation that is entirely both white and black has at one time or another during its existence launched some type of political action against the Pass Laws.

The order of the day in S.A. Conferences to consider the situation political.... economic, cultural has had on its agendas the discussion on the Pass Laws.

I wish on behalf of myself and my colleagues to extend of the banned P.A.C. my heart felt appreciation for the great honour bestowed upon me, a small man both in mind and in body to the sponsors of this gathering for having invited us in the first instance and in asking me to speak on the most controversial issue in our S.A. Political Polemics.

It is indeed, I do not hesitate to say, because of the historic role that our banned P.A.C. played almost 10 months ago in our positive decisive action against white domination and in their campaign against the Pass Laws that we were invited and that the sponsors of this conference asked me to speak on the Pass Laws. It is indeed a great honour to my president and to my banned Org. It is for that reason that I accepted the call to attend and to speak on this subject."

D/S Atmore, the handwriting expert told the Court that he is in his own mind satisfied that the author of Exhibit "G" is also the author of Exhibit "J".

/In

In other words that the accused wrote Exhibit "J". He could however as an expert not find sufficient points of similarity to give evidence to the effect that the accused in fact wrote it.

My submission is that had the handwriting expert told the Court that the accused wrote exhibit "J" and had the Court accepted his evidence, there would have been no doubt that the accused at least contravened Section 3(1)(a)(i) of the act because in this document the author admits that he is a member of the banned P.A.C.

In this connection I would like to refer the Court to the case Regina vs. Sahed 1960(1) P.H. H 119 (N).

In this case it was decided that in each case it is for the Court to form its own opinion as to the identity or otherwise between the handwriting of the accused and that which is in dispute. The function of the handwriting expert is to point out similarities or differences in two or more specimens of handwriting and when the Court has seen these itself it may accept the experts opinion as regards the significance of them. In evaluating such expert's evidence his experience is to be taken into account. Handwriting evidence should be received with caution and its value, if any, must necessarily depend upon the reasons which the experts give for their opinions and must be regarded in connection with the other proved facts.

So what are the proved facts in connection with Exhibit "J".

It has first of all been proved that the accused was a member of the P.A.C. before the organisation was banned.

/It

It was proved that the P.A.C. launched a so-called Positive Decisive Action Campaign against the Pass Laws.

It has also been proved:

- (i) That Exhibit "HH" was addressed to the accused in which he was approached with a view to address the Consultative Conference of African Leaders on the 16th and 17th December, 1960.
- (ii) That Exhibit "JJ" which is the Agenda of the Conference was found in the possession of the accused.
- (iii) That in Exhibit "JJ" the accused is mentioned to address conference on "The Struggle Against the Pass Laws" on the 17th December, 1960.
- (iv) That on the 17th December, 1960, the accused attended Conference, and
- (v) That in his possession Exhibit "J" was found which is obviously notes on connection with a speech on "The Struggle Against the Pass Laws".

In view of all these proved facts and in view of the fact that D/S Atmore is in his own mind satisfied that the accused wrote these notes I think it is not unreasonable for me to ask the Court to form its own opinion as to who the author of Exhibit "J" is.

I submit with respect that the only inference the Court can draw is that the accused is the author of this exhibit and that he is thus guilty as charged.

EXHIBIT "K" :

Notes headed "Differences" in the handwriting of accused and found in his possession on the 15th February 1961 by D/S Wessels of Vereeniging.

I read these notes:

1. The breaking of the slogan - no bail, no defence. Thus no longer recognised P.A.C. members - Bunch of beggars - P. Duncan - Then you are no longer a P.A.C. member if you go on bail - I will send a word outside - Message was sent outside to Sikhanyile. Sent to branches.
2. Tdd to go with my followers. We don't recognise you and your lot.
3. P. was to put in order the Confirmed.
 - (a) They destroyed the organisation and left.
 - (a) Apparent - question started inside. None of the Region was charged.
 - (b) They go and work
 - (c) Case promising.
 - (d) All want to go out the family. Propagandists - Forces."

These are obviously matters relating to the P.A.C. If the accused did not continue to be a member of the P.A.C. why did he then concern himself with the breaking of the P.A.C. slogan "No bail - No defence" and the fact that members of the P.A.C. are referred to as a bunch of beggars? What messages other than messages related to the P.A.C. could be have sent outside. Who are the "they" who destroyed the organisation and left? Note the word "they" and not "we". The accused thus excluded himself.

Exhibit "L":

Notes "The position as I see it" written by the accused and found in his possession by D/S Wessels on the 15th February, 1961.

I read these notes:

"28/1/61 - The position as I see it - Liberation Front.

1. Why I came now

2. Frs (Prisoners) life and others.

22.10.59 - After detention. Case taken. Committee under Sikanyile - wanted to resign - we begged them - Disappeared - New Region elected - Contemplating the county 1369 Transkei opened branches - Vokoze. Task Force 545 (600) Starving People - Armies moving within fields"

These are obviously notes in connection with the Liberation Front. Is this "Front" not perhaps the same path of Liberation or the National Liberatory Movement which are referred to in Exhibit "T" (Mafube)? One of the aims and objects of the P.A.C. is:

"To " ./ ...

"To maintain complete purity of the P.A.C. as the only organisation of the African People for their national liberation in Africa" - Exhibit "AA" (The Disciplinary Code), page 1.

or as "The Africanist" Exhibit "CC" page 4, paragraph 4, puts it:-

"Firstly P.A.C. is more interested in the liberation of the African People than in fruitless wrangles with other organisations and that is so because P.A.C. has a powerful message for the Africans, and also because P.A.C. has a positive programme of struggle".

and on page 6, paragraph 5,

"P.A.C. has a clear, powerful Liberatory Programme, and a powerful, dynamic, unifying and galvanising liberatory outlook, African Nationalism".

What is the "Task Force 545 (600)" the accused makes mention of an what is meant by "Armies moving within fields". Is it not perhaps their way in achieving eventual "Freedom"?

Exhibit "E":

This is an extract from the book "African Nationalism" by Ndabaningi Sithole made by the accused in his own handwriting. The Defence had an extract typed of the relevant portion. It is perhaps interesting to note that the extract made by the accused is not a true extract of what is said. The accused preferred to leave out portions to wit:-

"The African hates European domination but does not hate the white man. He welcomes him. The physical presence of the white man in Africa is

welcome but his domination is unwelcome. Perhaps we should state how it comes about that most whites conceive the plausible but erroneous idea that in general African Nationalism is aimed at the white people There is room enough for many people who desire to live on equal footing."

Exhibit "H":

The "Statement" found in the possession of the accused. I have already dealt with the terms "African Nationalism", "Unity in Positive Action" and "Genuine African Nationalists".

The State has also proved that the co-signatories of this document were at one time or another all members or office-bearers of the P.A.C. It is in the circumstances my submission that it is not an unreasonable suggestion that the African Nationalists mentioned in this document are in fact members of the P.A.C. and that the ideas which they are trying to convey are no less than the aims and objects of the P.A.C.

Exhibit "EE":

An original letter dated the 8th August, 1960, and addressed to "Sons of Africa". The author is obviously a member of the P.A.C. The letter is self-explanatory and sets out the whole Positive Action Campaign on the 21st March, 1960, and also what followed thereafter.

We do not know to whom this letter was addressed or who wrote it but it was found in the possession of the accused. Amongst others, the author says:-

"How do we continue the struggle from here to

victory/ ...

victory within the shortest time possible? I should like to get your considered views here."

Was this question not put to the accused or was he not supposed to reply to this letter? Why did he then have this letter in his possession. This letter was written after the banning of the organisation and if the accused did not consider himself to be a member of the P.A.C. after banning what was he then doing with this exhibit.

Exhibit "FF":

A letter written to Mr. Benson Dyantyi by Patric Duncan with a view to get information from him as regards financial aid to P.A.C. dependents. The letter was written on the 7th September, 1960, and on the 20th September, 1960, it was found in the possession of the accused. Witness Dyantyi told the Court that he personally investigated the matter but that he subsequently decided to give it to the accused to reply to. This witness must have regarded the accused as the best person to reply to P.A.C. queries.

Exhibit "OO":

A lapel badge "Africa for the Africans - P.A.C" found in the house of the accused on the 24th March, 1960, This was before banning and the only inference the Court is called upon to draw from this document is that the accused was a member of the P.A.C. before the organisation was banned.

Exhibit "PP".

Four folio sheets. Not of much importance except that Exhibit "M" is written on a similar sheet.

Exhibit "QQ":

Names and addresses. Also not of importance.

Exhibit "RR":

Minutes of the meeting of the Management Committee held on the 24th January, 1961, Not of importance.

Under all these circumstances and particularly in view of the document found in the possession of the accused and in the light of the accused failure to give evidence I feel that the State has proved both counts. The State has however charged the accused in the alternative and the Court is therefore only competent to bring out a conviction on one of these counts. The State has chosen to charge the accused in the main count of a contravention of Section 3(1)(a)(i) of the Act and I feel that the evidence supports the main count. I therefore feel that the Court should convict the accused on the main count.

A.O.S. NAREE.

STATE PROSECUTOR.



DE 1/64

BLANKIE. (1) Polisie moet een afskrif van hierdie rekord met uitslag van verhoor daarin ingesluit, aan die S.A.S.S. Postbus 440, Pretoria, versorgenaar.

(2) Een afskrif moet aan die Publieke Aanklager ter ingeliging van die Laedersre verhoor word.

(3) Een afskrif moet aan die Klank van die Hof verhoor word om aan die Laedersre toe te voeging te word of ter beskuldiging geen vorige verhoor.

(4) Vier afskrifte moet, in sake wat in Hoof- en Kantsgeboude doen, aan die Klank van die Hof of bevestiging verhoor word.

IMPORTANT. (1) Police to return one copy of this record to the S.A.C.S., P.O. Box 440, Pretoria, with result of trial endorsed thereon.

- (2) One copy must be handed to the Public Prosecutor for use by the Magistrate.
- (3) One copy must be handed to the Clerk of the Court for attaching to the Committal Warrant, even if accused has no previous convictions.
- (4) Four copies must be handed to the Clerk of the Court for disposal in cases set down for hearing in Superior and Circuit Courts.

Die beskuldigde het, nadat aan hom geel is dat die lyk dat hy is verantwoordelik was waarna bevestiging op hoort gegee, en geens is om hulle te erken of onken verklaar.

The accused who, having been informed that it appears that he/she was concerned of the offence committed and being called upon to admit or deny these convictions, declares—

Handwritten signature: P. de Vries

Handwritten note: 20/11/63

Handwritten note: 20/11/63

Hof Court

Handwritten signature: P. de Vries

Handwritten signature: P. de Vries

Date

15/9/63

UITSLAG VAN VERHOOR OP HUIDIGE AANKLAG.

Moet SLEGS vier blanke blads van die Mag ingesluit word.

RESULT OF TRIAL ON PRESENT CHARGE.

Entries to be made by European Members of the Force ONLY.

| Hof en plek van verhoor Court and place of trial | 1. Datum van skuldigveroordening Date of conviction | Volgens Sentence | Plaats Office | Naam waaraan verhoor Name convicted under |
|---|--|---------------------|------------------|--|
| | 2. Datum van waans Date of sentence | | | |

Handwritten note: P226/62

Is beset betaal: Indien nie, word naam van tronk opgetypt

Weg fees paid: If not, state paid/backup

**BLAA OM
TURN OVER.**

Handwritten note: Handtekening in en rang van Polisiebeampte wat die uitslag van die verhoor verskryf het.

Signature, No. and Rank of Policeman who filed in result of trial

Handwritten note: Donatius van...
Thurk...
...

11.10.63

Handwritten note: ...

357

Handwritten note: 372

VORIGE VEROORDELINGE

PREVIOUS CONVICTIONS.

| Naam van verhoor Cases and place of trial Hofstaat no. Court case no. | 1. Datum van strafzitting Date of conviction 2. Datum van vonnis Date of sentence | Vonnis Sentence | Misdrijf Offence | Naam waarvoor veroordeeld Name convicted under |
|--|--|--------------------|---------------------|---|
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KR. N/35530.

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sekere witte.
Molete.

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Tuisk antwort angakke in die vertaling van aangeklagte is in 195 en 1960. Omslag van gewone
genders. Verpleging en Ulyghe as Aanvraging 2.1.1. in verhoor. Hoofsaak van die deel van -
verpleging in 1950 en 1960. Omslag van gewone genders, wat wysende dat dit gewone is. Verpleging
en Ulyghe van 'n verhoor dokument, wat wysende dat dit verhoor is. as Aanvraging van die deel van omring
Aangeklagte taal te verskiet.

Unless otherwise indicated the crimes described in 195 and 1960. Reading under property. Forgery
and Uttering and Assent 2.1.1 and so for the crime. Hoofsaaklik word teken in 1950 en 1960 as verhoor
and Assent. Regarding other property and knowing it to have been stolen. Forgery and Uttering a forged
document and knowing it to have been forged, and Assent with intent to do genuine utility harm.

Blaa om
Turn over.

373

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E ——— $\frac{1}{15}$

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398 (S)

U.S. Standard Form 11-20-1, REVISED FEBRUARY 1955

S.A. LUGGERS,
S.A. AIRWAYS.

INFORMATION IN AIRWAYBOOKS,
AIR CARGO ADVISE AND SHIPMENT NOTE.

No. 5774

EX-111
To Mr. S. J. Frazee

286 Park St
Durham Village, Fairport, N.Y.

The goods and/or Marks were loaded on the aircraft described, for shipment as a condition of contract, on the date indicated hereon, which date hereinafter is referred to as the date of shipment.

| Classification, No. of Pallets | Weight, No. of Packages | SHIPMENT INSTRUCTIONS - SEE THE MARK | Remarks |
|--------------------------------|-------------------------|--|---------------------|
| | | IT IS THE SHIPPER'S RESPONSIBILITY TO MARK THE GOODS | |
| <i>2/8/5</i> | | | |
| <i>2/8/5</i> | <i>1</i> | <i>SEALED</i> | <i>2 1/2 Pallet</i> |

The shipper warrants that the information on the invoice and the accompanying documents is true and correct, and that the goods are properly packed and secured for shipment.

Other terms applicable to the delivery shall be those set forth in the Airwaybook unless the carrier consents in writing. The carrier will be responsible for the loss and damage to the goods in transit, in accordance with the conditions of the Airwaybook, if not insured.

Some items require special handling and are marked as such in the Airwaybook. The shipper is responsible for the proper marking and handling of such items.

SEE PAGE FOR DELIVERY INSTRUCTIONS.
If the goods described are to be delivered by air, the shipper must use the appropriate Airwaybook instructions. The shipper is responsible for the proper marking and handling of such goods. The shipper is also responsible for the proper packing and securing of such goods. The shipper is also responsible for the proper labeling of such goods.

2/13/5

Joseph Shust
8/10/1961

V Residencia Pan

1966

718
401

J. K. ...
Jogor Rd ...

M. ...

Debit Pd 15/2/66

[Signature]

Case No P226/62

Exh

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4/6/62

W
402

Ex 54

238

19/5/61
J. Kumalo
D. J. K. K.

2500
27/1-

J. Kumalo

Collection Number: AD1901

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

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