

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

BEFORE: The Honourable Mr. Justice THERON.

In the matter of:

THE STATE VS HENRY FAZZIE & 6 OTHERS

CHARGE: Sabotage.

PLEA: Not guilty

VERDICT: Guilty

30th SEPTEMBER 1963

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J U D G M E N T

THERON, J:

Before dealing with the evidence and the conclusions to which I have come, I have to deal with certain matters raised by some of the accused in the course of their argument.

At the conclusion of all the State case each one of the accused was asked individually whether he wished to call any witnesses. They all said they did not wish to call any witnesses, as the witnesses they could perhaps call were outside S.A. Those were people in Tanganyika, mainly in Dar-es-Salaam.

The case then proceeded, each one of the accused giving evidence under oath. In addressing me this morning, accused No. 1 asked that the case be postponed because he wishes now to call certain three witnesses, their names being A. J. Lethuli, attorney M. B. Genkwa and Patrick Malawa. He gave in his prepared written address the address of these witnesses. When asked to tell me what he expected these witnesses to state in evidence, I gained the impression that he was not prepared to tell me what they could say, except for saying that they would testify that what the

*Reduced to 12 years on appeal.*

accused are alleged to have done, and if they did do so, they did not do so in furtherance of the A.N.C.

As I mentioned to him, and now I state it again, justice requires that cases must be brought to finality. A clear opportunity was given to all the accused to elect to call witnesses if they wished to do so. They exercised that right and said they did not wish to call witnesses. Now, after each one's case has been closed, and at the stage of after argument by Counsel for the State, this request is made. I see no grounds, and certainly no reasons have been advanced, for deviating from what is usual, in refusing such an application unless good cause is shown why such witnesses should be called, in the circumstances of this case I do not see that there is any good cause shown for ~~such~~ such a course. I therefore will not grant the postponement for that purpose.

Accused No. 3 in the course of his address used rather strong language, more of a political kind, and I must immediately say that this is not a political platform and I am not concerned with politics at all. The accused refers to the policemen being White, the prosecutor being White, and, unfortunately, the Judge being White: "The Whites, whose "baaskap" we fight, are investigators, prosecutors and judges". He poses the question: "Can I and my colleagues here be expected to believe that there can be justice in such a system?"

I say again, I am only concerned with the evidence that has been adduced and so much of the law as is concerned with the indictment before me. The colour of the witnesses who gave evidence is ~~irrelevant~~ immaterial. I have to assess the value of the evidence of each one of the, individually and

then collectively. In fact, his criticism in this regard is without foundation because most of the witnesses who testified against the, were their own countrymen.

The last matter to be dealt with in this regard is the application by accused Nos. 5 and 7, who again complained that no provision was made for their defence, and have asked that the proceedings be referred to a higher Court for review. I am not going to deal with the question of the defence again. That was disposed of at the stage when the trial commenced. They were given sufficient opportunity of engaging the aid of Counsel or attorney, if that was of any assistance to them and even at the late stage when the trial started, through the Registrar's office contact was made with the persons mentioned by them, who were unable to undertake their defence. And in any event, there is no machinery for the procedure that they envisage or requested me to follow.

Dealing with the evidence, the prosecution has to satisfy this Court on facts in regard to certain matters. They know that they are charged with contravention of Section 11 (b) of Act 44 of 1950 as amended, because it is alleged that they as resident in the Republic left here and wrongfully and unlawfully underwent training of a military nature, which could be of use in furthering the achievement of the objects of the A.N.C., an organisation which has been declared to be unlawful organisation under the Unlawful Organisations Act. The provisions of this section have been read out to them, and I do not wish to repeat it.

In terms of the indictment the prosecution has undertaken to prove beyond reasonable doubt, in order to secure a conviction that each of the accused were resident within the Republic, that they did undergo training of a military nature. The State has placed before me certain evidence, from which it asks me to conclude, not

only that the accused did undergo training of a military nature, but that such training could be of use in furthering the achievement of the objects of the A.N.C.. The law provides that if the State proves that you, or any of you, did undergo military training outside South Africa, then it is for you to satisfy the Court that it was not for the purposes mentioned in the indictment.

Now what evidence has the State presented to the Court? There is the evidence of two persons who alleged that they were with you from the time that some of you left South Africa, later joined by two others, in more detail I will refer to the evidence; that you eventually went to Da-bra-zid, where you did undergo military training for three months. Now those two witnesses on their own statement, if they did go with you, did undergo military training themselves. They would therefore be subject to the same provisions of the Act as you are being charged with. For that reason their evidence is considered to be evidence of accomplices, and before a conviction can be secured on the evidence of accomplices, certain legal requirements as also procedural requirements, must be satisfied.

First of all there ought to be alunde evidence of the commission of the crime if there is reliance placed on the evidence of an accomplice. Or if there is the evidence of an accomplice in order to secure a conviction, there must be corroboration of that accomplice's evidence on material aspects implicating the accused as well. Then there is the cautionary rule to which Counsel has already ~~Xd~~ referred. Both these two witnesses will therefore be treated in the same way as an ordinary accomplice for the purpose of assessing the quality of their evidence. It is clear in law that one accomplice, if satisfactory as a witness, may

corroborate the evidence of another accomplice, if that person's evidence is satisfactory.

Now both these witnesses gave a very detailed, and, I must say, an impressive description of their initial joining up; their trip to Johannesburg and the purpose for coming to Johannesburg; and the various stages they went through from Johannesburg to Lobatsi; and eventually landed in Da-bra-zid. And as I said before, they say that all seven of you were with them at this military training school, where you all underwent the same training as they did and which they described, perhaps not both in equal details, but substantially the same.

It is clear from the evidence of the first witness, Isak Rani, that he was told something about a school by a person called Umklubula. In the course of gaining further information he was in contact with Archibald Sedeku and also Fred Buhla.

Fred Buhla was the person who was with them at Cape Town when tickets were purchased for them to travel to Johannesburg. They were told to get into a train under certain false names. Some of the names they mentioned in Court here, and that was confirmed by a Mr. Van Zyl who was the train controller, testifying about that train reaching Johannesburg. In addition, Buhla gave them each a box of cigarettes and inside there was an address written down. They were given black ties and arm-bands, and the purpose of that was, as they were unknown in Johannesburg, and as they were to meet somebody who would probably not know them, they were, on approaching Johannesburg to have put the arm-bands on and also the black ties. By that means the person who was to fetch them at the station would be able to recognise them.

According to the evidence of Isak Rani, they arrived at the station in Johannesburg, after leaving Cape Town on the 13th June 1962. They did not meet

anybody at the station. They were then compelled to make use of their own means of finding ataxxi and going to the address given inside these cigarette boxes. According to Rani's evidence, there at this address he met Kantilal Moodli. Later, after speaking to Moodli, he was fetched and taken to Marabe Hotel. He met a person by the name of Kumalo, who informed them that their stay would be paid for by somebody there. They stayed for approximately three weeks. At the Marabe Hotel they were not to answer questions except, if asked what they were there for, to say that they were members of a football team. At this hotel, he says, he met a Joe Modiso who visited them there. There, he says, he met accused No. 3, 4, 5, 6 and 7.

After about three weeks, a person by the name of Elia - he has forgotten the surname - called. Elia then left with accused No. 3 before supper one evening. Thereafter No. 3 accused returned and told them to take up all their belongings and to come along. There were then 14 or 15 of them, and they went to a ~~double~~ double-storey house near the railway line and there he met Johnny Makitini and Josef Jack and also a certain Maloi, or Baloi it may be. After some time they were taken from there in a panel van and two Kombis. Joe Modiso, Elia and Josef Jack was there.

He mentioned experiences on their trip to Lobatsi - I do not want to go into all the detail. He mentions, for instance, being stopped by a traffic officer, and later having experience of trouble with the headlight of the van; that the van was then without lights and had to travel between the 2 Kombis, as previously had led the fleet of vehicles. They arrived at Lobatsi at approximately 5.a.m. There they found a coloured pole closing their passage. They reversed and went around this and eventually

landed in Lobatsi after having taken all their belongings and putting it into one van. There, in Lobatsi, Josef Jack and Makitini came and told them that they were to go to Palapye, where they met a certain Umpol, and they were then taken to Masalanti in two vans. He says that at Masalanti a vehicle arrived with accused No. 2, and the next day, he says, they went through to Bulawayo. There they could not sleep on the station because they did not have tickets, and they were compelled to go to another station where Baloi bought them tickets and they travelled further to Lusaka.

At Lusaka they again were met by Josef Jack and Makatini. Because they did not have papers and mode of conveyance they travelled on foot to Tunduma. There they went to the U.N.I.P. offices. He also described how they were met at Dar-es-Salaam; were taken to the A.N.C. offices, there, but it was locked. Only some of them went there. Others did not accompany them. There he met James Radebe and also Zenzeli Mgabu. The next day they were again taken to the A.N.C. offices. While at Dar-es-Salaam Tennyson Muhluwani took them to be vaccinated, and Josef Jack took certain snaps of them which were subsequently used for their identification cards, or call it passports if you wish. They also met a certain Oliver Tambu and he was present and did not overhear it, but he saw him speaking to Johnny Makatini. There Tennyson told them that they were going to train as soldiers in Ethiopia. They were given these passport documents, £2-10-0 each in cash, and they went by bus to Nairobi.

There they were met by accused No. 1. They met accused No. 1 at a bus stop. A phot of this group was subsequently found when accused No. 2 was arrested. A small photo-exhibit 2-J was shown to him and he identified this as

Lt. Yaya, of a Captain Mamo's army. According to his evidence, the Captain issued them with clothing, and they were given quarters. There they received three months training, all of them. He did not only receive the training and the actual physical drilling, but also attended lectures in a class room, each of them being issued with an exercise-book to keep notes. Those who could speak English, as the language in which they were taught was English, they wrote down, and those who could not write down, had it explained to them again by those who could.

According to his evidence, Macdonald Masala gave No. 1 accused a note which was from Oliver Tambu. When shown the exercise book now before Court - Exhibit 3-G - which was found in the possession of accused No. 3, the witness identified it as a note book kept by accused No. 3 in the course of recording the tuition that he received. According to him, accused No. 3's nick-name was, or false name as he called it, was Mac Molikeni and he also said that the instructions were given to them in Ethiopia at Da-bra-zid.

Alfred Jantjies also mentioned Umklubula as the person who introduced him and stimulated his interest to an expedition for further education. He gave substantially the same evidence in regard to their trip to Cape Town and from Cape Town to Johannesburg. About the black ties and the black arm-bands given to them and the purpose for which that was given to them. Also about the box of cigarettes given and the address given to them. That they went to the address and eventually were taken to the Marabe Hotel. There Joe Modiso visited them and told them to say if asked that they were members of a football team. There he also described meeting accused No. 3, 4, 5, 6, & 7. They were later, after three weeks stay, taken to a double-storey

house from which they left in two Keabis and a van. He



described the trip in substantially the same way as Rani, the traffic cop stopping them on the way; the trouble with the lights; the coloured pole barring their way at the boundary, and in fact he gave a little bit of evidence to which Rani did not testify, but which finds some support in the evidence of another witness, and I should mention it here.

He states that when the driver of the front vehicle approached so close to this barrier across the road, Joe Modiso was annoyed with him and told the driver "you know you shouldn't come to here. This is not the first time that you have driven here". They reversed, transferred the luggage to one Kombi, and it was then said that that Kombi should go through and if asked what it contained, it should be said that it contained samples.

They then went across the border not by vehicle, by train from Lobatsi to Palapye, and further on to Francistown. He also says that approximately a mile from Francistown a lorry arrived with Joe Modiso and two others. One person being accused No. 2. He described further the trip from there to Bulawayo, and in the same way as Rani described how they were not allowed to sleep at the Bulawayo station, but later took tickets at another station and proceeded further. And exactly as Rani stated he mentioned that at Lusaka Josef Jack and Makitini came to meet them.

At Tunduma, Josef Jack and Makitini went to the U.N.I.P. offices, so he says. He also described the trip in a similar fashion from there to Dar-es-Salaam; how they met a certain Mrs. Xabanisu, and at that stage, he says, all the accused from No. 2 up to No. 7 were present. Not accused No. 1. At Dar-es-Salaam he says he met Oliver Tambu and James Radebe and Tennissen Makiwane, and there at Dar-es-Salaam he says Josef Jack photographed him. These

photographs were later used on their passports. There they were told by Radebe and Tambu that they were to leave on a certain day.

Fourteen of them left, including No.s 3 to 7.

Accused No. 2 remained with Oliver Tambu and Tennissen at Tennissen's house. They then proceeded to Nairobi. At Nairobi they met a further five people and that made their complement now 19. They were required to have a complement of 20; one man stayed behind, and he says it was at Nairobi that accused No. 2 joined then. In Nairobi he met No. 1 at a bus stop, and he says that at this bus stop.. at Nairobi, Macdonald Masala took their passports away from them, that is to say the passports of all of them. He went somewhere and later returned with these passports, carrying an Ethiopian Consul stamp, authorising the holder to enter Ethiopia and remain there for 90 days.

There they took the plane to Da-bra-zid in Ethiopia. He also mentions that a Captain Mamo was the captain of the army to which they were allocated. He spoke to them in English. That his Lt. was the one whose picture was handed in to Court - Exhibit 2-J - the picture taken from the possession of accused No. 2. He also says that this is the person who taught them the drilling. They were taught drilling for fourteen days and then taught about guns. He also mentions that they attended lectures and they had exercise books given to them, and in those exercise books they were expected - those that could do so - to record the lectures given to them and their instructions.

A further photograph taken from the possession of accused No. 2, which is a group photograph, he identified as a group of them, including all the accused, taken after the course was completed and before they returned. It was taken in Abyssinia. When their training was finished, they

were taken to town, they were clothed, given shoes and luggage bags. There at Dar-es-Salaam, James Radebe took them to the A.N.C. offices again.

Tennissen Makiwane and Oliver Tambu took them to Mbeya. At Tunduma on their way back, he saw a policeman, and this policeman caught two of them while they were in the process of illegally crossing back, crossing the border. According to his evidence, accused No. 4 and No. 7 did not join them on their return, they only joined them the next evening, and he also says that he was told that Joe Modiso was accused No. 2's brother-in-law.

Now that is the evidence that they have given. The question is, what corroboration is there of their evidence? I have purposely left out the evidence given by them of the nature of the training that they received. I do not wish to repeat it. You have heard their description of what you did: drilling, being taught the handling of certain firearms, explosives. How you were given instruction in reading and guiding the setting of sights on an unseen target, and how you were given lectures on patrols, and various aspects on which they gave evidence: all aspects of a military nature. And they say that those who could speak and write English, were required to keep notes of what was told them and the instructions given.

It is beyond any dispute that on their return, the nine of them were arrested at Bulawayo. There, certain documents were taken from their possession by Inspector Officer Ivey. These documents have been handed into Court. They speak for themselves, and the accused have not denied being in possession of those documents. Now the State has asked me to come to the conclusion that the documents themselves strongly corroborate the evidence of the two accomplices.

Not only corroborates them on material respects, but corroborates them to the extent of implicating each one of the accused, more particularly in regard to their identification of each one of you on a picture in Abyssinia, where you were trained. And in addition, the documents found in the possession of accused No. 1 and No. 3, to which I shall refer presently, there notes are taken of instructions given concerning your military training that you received.

In addition to that, there are inferences, so the State says, to be drawn from the features of the passports issued to you and the vaccination certificates. Accused No. 1 did not accompany accused Nos. 3 to 7 from S.A. On the evidence of accused No. 1, he left South Africa unlawfully in 1961, or 1960. In any event he says that he was issued with a passport which he identified here in Court. That passport has a clear stamp of the Consul of Ethiopia under the date the 7th August, 1962, stamped at Nairobi. The same is to be said of all the other identification cards.

The important feature of accused no. 2's identification card is, that he no doubt must have given the authorities the information that he was born in Johannesburg, because so it is endorsed. He is in fact a Nyasa, born in Nyasaland, but he admits that he came to South Africa where he received a document to which I shall refer later, to establish whether he was resident in South Africa. I have asked myself the question, although the matter was not investigated in evidence, why he should have said that he was born in Johannesburg. It is a probability that he knew he would not be given a passport as a Nyasaland resident, and therefore elected to say that he was born in Johannesburg, but however that may be, it does not really matter. He was given an identification card, or a passport, call it as you wish, dated the 7th

August 1962. It too is date stamped by the Consul of Ethiopia at Nairobi, but in his case it was given, that endorsement was made on the 8th August 1962. That seems to confirm the evidence of the witnesses here, who said that accused No. 2 remained behind at Dar-es-Salaam; that they proceeded to Nairobi, where in Nairobi on the 7th August all their passports were endorsed by the Ethiopian Consul to allow them access and entry into Ethiopia; that because one man stayed behind, accused No. 2 joined them, and in fact there is evidence by Jantjies, I think, that accused No. 2 told him that he came up by plane. That is proved by his own evidence, also the flight dossier that has been handed in here, of his ticket.

It is also remarkable that with the exception of accused No. 1 who was vaccinated on the 17th November and the 22nd October, the other accused were all given yellow fever injections and small-pox vaccinations at roughly the same time. According to the State witnesses they were taken in batches for that purpose. Both of them say that Josef Jack is the person who took their pictures for their passports. I think it is the evidence of one of police officers from the Cape who said that he knows Josef Jack very well and he knows that he is accepted as an expert photographer, or a professional photographer.

But there the coincidence does not end. When looking at the tickets given to them for their journey back to Bulawayo, it is quite clear without having to juggle around with figures, that they were in one group. That is to say, the two State witnesses and the seven accused, making a complement of nine. Nine persons, including the seven accused and the two State witnesses were arrested at Bulawayo by a Mr. Ivey. They were all dressed in similar fashion, all carrying similar bags

and when asked where they had come from, individually asked, they all had the same account to give, that they had come from an educational course, and were on their way to either Palapye or Lobatsi to visit friends or relatives. And I emphasize this fact because I consider it of importance, that all nine of them told him that they were from the Republic of South Africa.

In addition there is also evidence, of not very strong corroborative form, but of some evidential value that accused No. 1, when searched by Mr. Strumpher, had an Ethiopian copper coin in his possession, which he has not explained. And No. 2 accused had an Ethiopian dollar in his possession.

But in addition there is evidence that at the border when they were on their way back, the police caught two of them and endorsed their passports that entry was refused, and those two are the two that Jantjies pointed out in this Court.

In addition, to come back to the commencement of their journey, there is evidence of the witnesses for the State, the owner of the Marabe Hotel, and also the witness Kantilal Moodli, who says that he was met by two persons in June of last year; that he contacted a Mr. Jack Hodgson, a person who later left the country for some reason. There is also the evidence of Jeremiah Mofokeng, the owner of the Marabe Hotel, who mentioned that he saw bantus arriving at his hotel in 1962 and 1963. His evidence I ignore for the time being. But there is the evidence of Essep Amod Sullman, the owner of the three vehicles; two Volkssagen Kombis and a van. Piet Coetzee and his brother Ebriam were the drivers of his pirate taxis.

He described how, on two occasions, his vehicles were engaged by Walter Maxie Zulu to take Bantus to Lobatsi.

And he says that his drivers drove on that occasion and again on the occasion in June. That is why I mentioned earlier on the statement by Jantjies, that when the driver drove up to the pole which barred the way at the boundary, probably within sight of the immigration offices, he was remonstrated with because he knew from his previous experience of driving them there, that he should not have driven as far as that.

This witness also says that in June 1962 Sesolo again engaged him to take young Africans across the border to Lobatsi. He gave substantially the same account of the drive to Lobatsi as did the two State witnesses. His evidence was, however, that he was taken by Modiso to the Marabe Hotel where he picked up the se people. It is obvious from his later evidence that he was mistaken in this regard, that he thought it was the Marabe Hotel, but in fact he says he did not know where the Marabe Hotel was. It was a double-storey house that he went to and he assumed that to be the Marabe Hotel.

He also says that Ebriam drove the one van and Modiso was with him. He was riding with Piet Coetzee. He also described the trouble with the generator of the van, and how the van drove between the two Kombis. They reached the border, and all got out. They crossed the border through the veld, and he said the red Kombi had the luggage in, and the red Kombi was to drive through, as Modiso told us. Should it be asked what the van contained, it was to be said that the van contained samples. His evidence of the number of people is substantially the same as that of the two State witnesses, to whose evidence I have already referred.

Piet Coetzee gave evidence of the two trips that he drove the previous witness's - Suliman's - vehicle to Lobatsi conveying Bantus there. According to his evidence

on the first occasion at the beginning of 1962, he attended a meeting where Sesulu and others spoke, and he heard what their plans were. On the second occasion, the same occasion to which the State witnesses testified, he again drove this van conveying the Bantu youths. How they came to the boundary, or the border, and there the persons left the vans and went through the veld. I should mention that his evidence in regard to the trip to Lobatsi, does not conform in every detail to the evidence given by the other witnesses, to whom I have already referred.

According to his evidence, there was no fault to be found with the van's lights, and the van drove ahead all the time. To that extent his evidence is not reliable, and I will therefore pass on, and consider the other evidence to which the State has referred me.

Now in doing so, I have to refer again to the documents found in their possession, and I refer in particular to the documents found in the possession of accused Nos. 1, 2 and 3. I am not going to read them - you know them - accused No. 1 had a document on which there are certain sketches drawn and details given of what is clearly military matters. That has been identified as military matters by State experts in that field. The same about the book found in possession of accused No. 3 and admittedly written by him. Now both these accused have given explanations of those documents. No. 1 accused says that he had an Arab friend up there who had this document and taught him about this, and he wrote down what this friend taught him. No. 3 accused again says that the book that he has in his possession is a verbatim copy of a book that had a friend of his/and in Dar-es-Salaam; that he was interested in this copy and he made an accurate note of every detail, including the man's name and address. Now it is so obvious



that the story is a fabrication that I am not going to dwell on it. I say that it is a lie. There was no need, if he showed an interest in what was contained in the book, to write out the name of the person whose book he had in his possession, and also a name of a town.

There is evidence very strongly corroborating the testimony of the two State witnesses. The one State witness said that what false name appears on that book was his false name, as part of their scheme of training, and I need not have military experts to tell me what is written in that book is the result of very careful instructions in military matters. The military experts were able to point to very alien aspects, to demonstrate that the evidence of the two State witnesses was correct, that they attended lectures, and were not just writing things down from a blackboard. They heard that evidence and I accept that evidence, and as I say, that confirms the testimony of the two State witnesses.

In addition there is the very important bit of evidence of a picture of a whole group of them being together. The two State witnesses identified each one of the accused as members of that group. And that group, as the prosecutor has rightly indicated, stands completely independent of any other larger group or any other association of people. No. 1 accused, whose evidence is admissible against all the other accused, irrespective of whether the documents might or might not be, says that that was taken of them as a group because they were all from South Africa. Yet the other accused wish me to believe that they did not know one another, except that No. 3, 5 and 7, I think, spoke to each other and found out they came from the same place, but that was all.

They lived in the same community refugee camps. They travelled on the same buses. According to the tickets

the numbers are very close to one another, suggesting that they must have been in a group; Their railway tickets bringing them to Bulawayo is in a group, two of them on one ticket; and the story told to me about the one having two men on his ticket - accused No. 2 - said that, and at Bulawayo his friend ran away, is nonsense. The group were all in one, and that is how Ivey found them.

So therefore in whatever way you test the evidence given by the State, as against the false evidence given by each one of the accused, they were manufacturing as they progressed in their testimony, it is obvious that the State witnesses were giving a true account of what happened. That picture shows that they were together with these seven accused, apparently in quite a happy, friendly gathering according to their testimony, at a festivity. Why should they now come and give this false evidence, and give it with such vast details? It could have been so simple for them if they wanted to fabricate, to say all seven accused left South Africa together, and they travel led together. But that is not what they say. They gave evidence which if tested in the light of what is shown by the documents it is found that their testimony is the truth. All of these accused gave explanations of the reason why they left South Africa, except No. 1. He said he didn't have a particular reason. Reasons which I reject as untrue. I accept the evidence that they went as an ~~Mr~~ organised group.

Now the other aspect on which the State must satisfy the Court is that they were either South African residents, or people who did reside here. All the accused, except No. 2 accused, are South African born. The officer who gave evidence in regard to the issue of reference books has satisfied me that they were so born here in S.A. and received their reference books. They have themselves admitted having been born here, and having left South Africa

without the necessary passports. Therefore, in regard to that aspect of the case, that too has been proved.

In regard to accused No. 2, who has asked me to make it clear to him why he should be here, as he is a Nyasa. Well, the law says that as he was a person who was in South Africa and left here to go and take training outside, for the purposes set out in the indictment, he is as guilty as those who live here permanently and are domiciled here. And again I say I find it difficult to understand why he should have obtained a passport with the information given, no doubt by him, that is the evidence that we have, that he was born in Johannesburg.

They have all denied that they took part in any training at all. They have denied strenuously being in Abyssinia. Now, dealing with each individual accused:

Accused NO. 1 was proved to have obtained a passport entitling him, by an endorsement on his passport of the 7th August 1961 to go to Ethiopia for 90 days. There is the evidence of the two State witnesses that in fact he did go, and I accept that evidence as it is confirmed. There is also the evidence of his association with Oliver Tambo, a person who has been proved on the evidence to be a member of the African National Congress. And a letter Exhibit 1-D, which I shall not read. It is dated the 6th February 1961, gives clear indication that he was there with a group of others. And he is also exhorted by Mr. Tambo to write further letters and lodge as many complaints as he likes and as forthright as he likes. Also, mention is made of a person whose name has been mentioned by the State witnesses. Then on the 4th October exhibit 1-E, there is a letter written by Tambo from London, clearly

dealing with the accused as a person who could speak to others in a group and in the scheme of things. There is the document to which I have already referred, with the military instructions on it. His testimony

is disbelieved as to how he came into possession thereof. And comparing the details on that with the details of another document found in accused No. 3's possession, although it might not be evidence against No. 1 - in my view it is evidence against No. 1 accused, as it is against all of them, because they were a group of people with a common desire and in agreement to go and undertake this training- it can be seen that there is meticulous correspondence or agreement between the one set of notes and the other on the details with which it deals. It cannot be such a coincidence that an arab in the one instance and a stranger to that arab in another instance, would have similar documents of tuition, handing them to two different accused persons, who are later found travelling together in a group and arrested at Bulawayo. On the evidence he is therefore found guilty on the charge preferred.

ACCUSED NO. 2. In his case there are these documents to which I have referred and the corroboration of the accomplices evidence. There is also the snapshots found in his possession, identified by these State witnesses in the one case as the Lt. in the Ethiopian army who gave them drilling instructions, and on his false explanation, some member of a church. His evidence in that regard is too childish to be believed.

And in his case too I have mentioned the factors of his being left behind, joining up the group a day later. That is shown by the endorsement of his passport of the Ethiopian Consul at Nairobi on the 8th August. On his version there was no need for such an endorsement at all. He suggests that that endorsement was "cancelled": c a n c e l l e d. It seems very much as though he did that cancellation of that endorsement, and in fact, the State witness Jantjies in reply to his own question, said so.

His vaccination and also his small pox injection coincide with that of Accused No. 4 - at a quick glance I pick that up - and also No. 7. On the same date. Jantjies said they went in a group for these injections and vaccinations. I am therefore satisfied that the State witnesses are telling me the truth, that he is a person who also went up to Abyssinia and took the same training, and that training was for the purposes set out in the indictment. They were all members of a group going to receive military training, to further the objects of the banned African Legion or its mushroom associate military wing, the Umkonto Wezizwe. The details of the Umkonto Wezizwe have been described to me by one of their own countrymen, who confesses that he is an African National Congress member, Solomon Nkosi. And he has also mentioned that the purpose of having ~~young~~ <sup>young</sup> men trained was to fight the Government. He had to recruit such men to go and receive voluntary training outside the country.

He also knew Makitini and Johnson Makitini as a member of the A.N.C. He described that the reason why people went outside to train was for the purposes of furthering the objects of the A.N.C. I therefore find accused No. 2 to be proved guilty of the crime charged.

Dealing with No. 3 individually, I have already mentioned how he is linked up, not only by the State witnesses, but by his own testimony in acknowledging the writing down of the details in this book. Clearly military matters, and clearly matters not obtained in the manner that he suggested. And the other requirements of the section in regard to him are also proved to my satisfaction ~~beyond~~ beyond all reasonable doubt. He is also found guilty of the crimes charged.

ACCUSED NOS 4, 5, 6 and 7 can be dealt with as one group. The documents speak volumes against them. They are seen on the photograph of the same group. Identified by the State witnesses as members of the same group, attending the same training in Ethiopia. They are found travelling in the same buses and the same trains. Joined in tickets, and, what is more significant, travelling in the same clothing, carrying the same bags. These, the witnesses said, were issued to you before you left Ethiopia as a matter of acknowledgment in some way. And when asked by Mr. Kvey, you all spoke in one voice: that you went up to Tanganyika or Nyasaland, to receive schooling, and that you were all going down to relatives and friends in Bechuanaland.

Their evidence I reject as false as the evidence of the other accused to whom I listened, who were most unconvincing in their testimony. In regard to them too, the evidence is clear that they were accepting military training outside South Africa, in furtherance of the purposes of the African National Congress or its affiliated body the banned Umkonto Wezizwe. In the circumstances, therefore, they are also found guilty as charged.

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Collection Number: AD1901

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

**PUBLISHER:**

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

*Location:- Johannesburg*

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