

would be paid an amount of £80.

Did you discuss this case with accused No.1? --- No, Sir, this is merely what I heard.

Did you discuss this case with any of the other accused? --- I heard it at the jail.

COURT: It was told to you by accused No.1, as you have said previously? --- Yes, Sir, well he was telling the others and I listened in. I listened in on this conversation.

The other accused? --- We were all together in the yard when he related the story.

PROSECUTOR: Were you ever influenced by anybody to give evidence for the State? --- No, Sir.

No further questions by State Prosecutor.

MR. SAPIRE: No re-examination.

COURT: Where is your father? --- He died, Sir, when I was still very young.

You never knew him? --- No, Sir.

This brother Piki was in the habit of bringing money to your mother regularly on Fridays? --- Yes.

Can you tell me whether your mother was to a certain extent dependant on the contributions supplied by Piki to the household? For the care of herself, you and at the time when Gcamfu still lived in the same house with you? --- Yes, he supported all of us in the house.

Piki? --- Piki, yes.

Then you learnt and you told the Court that your mother spoke about it too, that Piki had been arrested? --- Yes.

You made no inquiries what this arrest was for, although at this stage you must have realised that your support or maintenance had been taken from you? --- No, Sir, all my mother said was that my elder brother had been arrested, I must go to the Department of Native Affairs, obtain a

reference /...

reference-book and start employment.

Did you, or to your personal knowledge your mother go to the Law Courts and find out where and when Piki would appear and for what? --- I bear no knowledge about that, Sir.

You did not go? --- I did not.

Have you ever seen him again since that time when he was arrested? --- No.

When were you arrested? --- I was arrested in 1963.

Beginning, middle or end of the year? --- No, I can't remember, Sir.

I do not want the date, but were you arrested at the beginning of 1963, the middle of 1963 or towards the end of 1963? --- I think it was during the middle of 1963.

Have you been in jail ever since? --- No, I was released and then I was rearrested.

I am really referring now to your arrest for the present case. --- In connection with this matter, Sir, I was arrested on the 8th January, 1965.

Now, from the time when Piki was arrested until the 8th January, 1965, you haven't seen him? --- I did not.

And in spite of this you never made any inquiries at all regarding what had happened to him? --- No, Sir, I am very young.

Although you may be a little bit older than you say you are, but that is not material at this stage. I just find it strange that you are called upon to take on your shoulders, your young shoulders, the weight of the household of your mother and you make no inquiries to find out what had happened to your elder brother, who up 'till that stage had taken an interest in that household and had in fact maintained you and your mother and up to a certain stage also your other brother. I find that very strange indeed. What is your reply to that? --- I endeavoured to ascertain, Sir. I went to the jail at North End. When I got there I was told I was too young,

I /...

I would not be admitted in the jail.

Did you tell your mother that? --- Yes, Sir, as a matter of fact it was my mother who sent me to go and see my brother at the jail.

Then when you came back and told her that, did she go herself? --- Yes, Sir, she went the next week.

COURT ADJOURNED.

HEARING RESUMED : 1.30 p.m.

ACCUSED No.12:

MABEL MALI d.s.s.

EXAMINATION BY MR. SAPIRE: You live at Kwazakele Location?

--- Yes.

What is the number of your house? --- 2395.

Are you married? --- Yes.

Have you any children? --- I have 4 children.

Do they live at home as well? --- Yes.

Have you ever been a member of the organisation known as the African National Congress? --- No.

Have you ever gone to meetings of this organisation?  
--- No, never.

Have you ever made contributions financially to this organisation? --- No.

Or have meetings held at your house? --- There has never been a meeting that I saw in my house.

Did you ever allow a meeting to be held in your house?  
--- No, there was no meeting held in my house.

Have you, since the 8th April, 1960, had anything to do with the African National Congress? --- No, I know nothing about the organisation.

You have heard what the State witnesses have said about your connection with the organisation? --- Yes, I have heard them.

What do you say about that? --- They are telling lies.

No further questions by Mr. Sapire.

/...

CROSS-EXAMINATION BY STATE PROSECUTOR: Have you ever heard anything about the African National Congress? --- All I know, Sir, is that during 1960 my husband was arrested and it was said that he was being arrested in connection with the State of Emergency.

That is not the question. The question is: have you ever heard anything about the African National Congress, the A.N.C.? --- No, I have never heard anything about it.

Are you sure about that? --- I am.

Your husband's name is Freddie Mali? --- Correct, yes.

Was he a member of the African National Congress before the banning? --- I don't know.

And after the banning? --- I don't know whether he was a member of the organisation. I last saw him when he was arrested during the State of Emergency.

Was he released after that? --- Yes.

When? --- It was during that same year, Sir. I don't know when exactly.

That was during 1960? --- Yes, this was during 1960 when he was arrested for the State of Emergency, and he was again released during the same year.

And then you stayed with your husband - you lived with him? --- Yes.

He was again arrested? --- Yes, in connection with.. it was said he was at a concert.

That was during June, 1961? --- I don't know when it was, Sir, but it was after this State of Emergency occasion.

Can you read and write? --- I can't.

He was released and again arrested? --- Yes.

When? --- I don't know when it was.

Long ago? --- I think he had been three months in custody.

Then what happened to him? --- He was released.

And thereafter? --- I then returned home, Sir, and returned /...

returned in 1962.

Do you know when your husband Freddie Mali was arrested and charged and found guilty for his activities in the African National Congress? --- When was he convicted?

You don't know anything about that? --- I know that he was arrested, yes.

What happened to him? --- He was convicted.

What for? --- I didn't go to the trial, Sir, but I believe that he was sentenced to eight years.

I suggest to you that you know everything... you know a lot about the African National Congress and whilst living with your husband you were also a member. --- I know nothing about it.

At the end of 1960, did you leave Port Elizabeth?  
--- Yes.

Where did you go to? --- To Somerset East.

When did you leave? --- I left here in November.

When did you return? --- If I am not mistaken,  
February.

That is what the State witness told the Court -  
Lionel Mbane. Do you know Lionel Mbane? --- I know him.

Very well? --- He used to stay with Alexandria Mbane.

In the same vicinity where you live? --- Yes, well  
we used to share one lavatory. We were neighbours.

Did you ever have any trouble with any of the State  
witnesses? --- I had some trouble with Alexandria Mbane.

With Lionel Mbane? --- No.

Pagamile? --- No, I don't know him.

What trouble did you have with Alexandria Mbane? ---  
Last year Alexandria came to me at the house and he had a  
wireless in his possession. He said he is selling this wire-  
less. I told him I had no money, but I would like the wire-  
less. He said: "Well, if you pay me monthly, I will let you have  
it." He then handed the wireless to me. He said he is asking

me /...

me R20 for this wireless.

What is the trouble you had with him? --- Well, the trouble started after I had already paid him an amount of R4. A day or so after I handed him this money he came to me and he said if I would consent to my having carnal connection with him I could get the wireless for R12. This I refused to do. I told him: "Under those circumstances I am not interested in your wireless." He returned later and said: "I am quite frank about what I have said."

Is it true that you had a son with the name of Chroestjof Nikita? --- No, Sir.

You had a son who died? --- When I left him he was hale and hearty, Sir. Only here in Court a child of mine had died.

Not recently, during 1960-1961? --- That child that died was a girl, Sir, and the child died at Somerset East.

What was the name of the child? --- Joyce.

COURT: Have you ever had a young boy who died, while he was still a baby? --- I have no other boy, Sir, living or dead except this one. The boy's name is Elliott.

PROSECUTOR: Well, I put it to you that the evidence given by the State witnesses implicating you, is the truth. --- It is a lie, Sir.

No further questions by State Prosecutor.

MR. SAPIRE: No re-examination.

-----

ACCUSED No.13:

REBECCA NDONGENI d.s.s.

EXAMINATION BY MR. SAPIRE: Do you live in Kwazakele in Port Elizabeth? --- Yes.

Accused No.11 is your son? --- Yes.

Have you ever been a member of the organisation known as the African National Congress? --- No.

Has your son Enoch to your knowledge been a member thereof? /...

thereof? --- No.

Have you ever taken part in the activities of the organisation? --- No.

Or done anything to further its aims and objects? --- No.

Have you ever collected money on behalf of the organisation? --- No, Sir.

Or given any money? --- No, Sir.

Did you ever allow your house to be used as a meeting place for this organisation? --- No.

Your son Enoch, accused No.11, when was he born? --- At the end of 1948.

At which place? --- Kingwilliamstown.

And now that he has grown up, has he been a good son to you? --- He is naughty, Sir, he likes to fight.

Has he given you trouble in this regard? --- Yes, Sir. What I used to dislike about it, was that he used to get himself arrested.

Has he ever, to your knowledge, apart from that sort of behaviour, taken part in any political activities? --- No.

You have heard what the State witnesses have said here in Court? --- Yes.

You will remember - that you attended meetings; that you allowed your house to be used for holding meetings, etc.? --- I heard them say so, but what they say is not true. Your Worship, my house consists of two rooms. I separated the one room into two quarters. For myself in the one section and my son in the other. The other room is used for cooking.

No further questions by Mr. Sapire.

CROSS-EXAMINATION BY STATE PROSECUTOR: How many children do you have? --- 12 children altogether. That is including the deceased children.

How many children are still alive? --- Seven.

Who is the eldest? --- Gcamfu.

When /...

When was he born? --- It will be difficult for me to give the years in respect of the previous children .. the first children.

The second one, when was he born? --- Danie. He was born on the 26th January.

COURT: Was Daniel also called Piki? --- That is correct, Sir. He is one and the same person.

Is he also known as Douglas? --- Yes, Sir, they use that name, and they also use the name Piki.

Is that name used in your house or only when the man is out of your house? --- Do you mean the name Daniel, Sir?

Daniel or Douglas? --- I gave him the name Daniel. Others outside know him by the name of Douglas.

I am talking now of the use of that name. Was that name used when he came to your house? There is evidence that he came to your house regularly and gave you a certain amount of money .. mostly on Fridays. Now, on these occasions when he came to your house, did you use this name Daniel freely, or Douglas? Was this name used often in your house, and within earshot of the other occupants of your house? --- Yes, Sir, I used the name Daniel at the house and others could have heard.

Was that also in the presence of accused No.11, Enoch? --- No, Sir, they called him Piki.

Did you use the name Daniel or Douglas in your house in the presence of accused No.11, where he heard you call this other son of yours by this name? --- Your Worship, I normally do not make use of the name Daniel or Douglas. I call him by the name Piki. But if there is anything connected with documents on which his name appears, I then make use of that name.

You have quite an ability for avoiding the question. Evading the answers. I shall repeat the question. You have already told me that you quite frequently used this name

Douglas /...



Douglas or Daniel in your house and within hearing of others. Is that not correct? You have said so. --- At the rent office, when I go there, Sir, then I call him by the name of Daniel.

PROSECUTOR: When was Daniel born? --- 26th August, 1934.

Not January? --- I made a mistake just now.

Are you not positive about his date of birth? --- I am still the type of Native that uses ...

How old is he now? --- It is difficult to say, Sir.

Why? Do you know when he was born? Certainly you can tell the Court how old he is? --- Being an ignorant person, Sir, of course it is difficult but if I were educated I would have had no difficulty.

Your third child, when was that child born? --- 1936.

When in 1936? --- April, the 20th.

The fourth one? --- The 23rd May, 1939. The other one was in 1942.

Yes, and No.6? --- 5 children of course are dead.

COURT AND PROSECUTOR DISCUSS : Accused No.13 to stand down.

-----

CHRISTIAAN RUDOLPH POTGIETER v.o.e.

DEUR DIE HOF: Dokter, is u Distriksgeneesheer? --- Assistent.

U het so pas vir beskuldigde No.11, Enoch Ndongeni ondersoek? --- Ja, Ed.Agb.

En die doel van die ondersoek, hoop ek, was verduidelik gewees - dit is om vas te stel wat sy ouderdom by benadering is? --- Dit is reg, Ed.Agb.

Het u tot enige gevolgtrekking gekom? --- Ja, uit my ondervinding reken ek dat die persoon wat ek ondersoek het daar, minstens 21 jaar oud kan wees.

Kan u 'n paar van die waarnemings net in die algemeen gee waarop u u bevinding baseer? --- Ja. Onder andere is daar sy verstandstande wat gewoonlik op die ouderdom van 18 deurkom, hulle is vol deur. Die volle lengte deur en ten volle

ontwikkell /...

ontwikkel, wat reeds om en by 20-jarige ouderdom gevind word. Dan sy fisiese liggaamsbou - as hy 'n atleet was dan sou hy kon deelgeneem het aan 'n sport wat geklassifiseer het onder provinsiale gehalte. M.a.w. hy sou nie meer in 'n junior span wees of so nie. Hy sou nie vir onder 19 rugby speel of so nie. Hy kan geklassifiseer word onder 'n persoon wat al ouer is.

Sy ma beweer hy is gebore in 1948. Dit sal hom 17 maak. Dink u dat dit enigsins korrek kan wees? Dat daar 'n moontlikheid bestaan dat dit korrek kan wees? --- In my opinie, Edelagbare, kan dit nie korrek wees nie.

ANKLAER: Geen vrae nie.

KRUISONDERVRAGING DEUR MNR. SAPIRE: Dokter, watter toetse het jy gebruik om uit te vind wat sy ouderdom is? --- Soos ek gesê het, ek het na die ontwikkeling van sy verstandstande gekyk.

HOF: Ek dink u het gesê, en die fisiese liggaamsbou? --- Ja, en die fisiese liggaamsbou.

MNR. SAPIRE: Kan dit wees dat hy 20 of 19 kan wees? --- Dat daar 'n jaar verskil kan wees?

Ja. --- Dit is moontlik. Soos ek sê my opinie is dat hy minstens 21 jaar oud kan wees.

Ja, maar kan dit wees dat hy.. --- Dit is moontlik.

Dat hy 'n bietjie jonger kan wees? --- Ja.

Het u met hom gepraat of wat? --- Ja.

Deur 'n tolk? --- Ja.

Hoe lank het u met hom gepraat? --- Van 5 na 10 minute.

Oor wat het julle gepraat? --- Ek het sy intelligensie getoets tot 'n mate, net deur te vra hoe hy skool gegaan het, en die aantal jare wat hy skool gegaan het. En hoe ver hy gevorder het.

Kan 'n persoon van minder as 21 jaar nie hierdie vrae antwoord nie? --- Nee, dit het niks te doen gehad met die ondersoek na die ouderdom nie. Dit het niks daarmee te doen

gehad /...

gehad nie.

Ek het gevra wat was die toets wat jy gebruik het om uit te vind wat sy ouderdom is?

HOF: Nee, dit is nie wat u nou gevra het nie. U het nou vir die dokter gevra waarom het hy met die beskuldigde gepraat en hy het vir u gesê waarom het hy gepraat. Hy het nie gesê: "Ek het hom daardie vrae gestel met die doel om sy ouderdom vas te stel nie." Die mediese getuienis sover is dat daar toetse uitgevoer is.. ten minste ondersoek ingestel is na die toestand van sy tande, veral sy verstandstande en verder sy fisiese ontwikkeling. Daardie antwoord het u gekry op u vraag watter toetse uitgevoer is ten einde die ouderdom vas te stel. Die res wat u gevra het het nie strekking gehad op die dokter se toetse om die ouderdom vas te stel nie. Dit is wat u nou te kenne gee.

MNR. SAPIRE: Hoe het u vasgestel wat sy "mental age" is? --- Nee, sy verstandelike ouderdom het ek nie getoets nie. Dit was nie van belang gewees nie.

HOF: 'n Man kan 30 wees, Dokter, nie waar nie en die verstandsouderdom van 'n kind van 2 of 3 hê? --- Ja, of vice versa.

Of hy kan 5 jaar oud wees en die verstandelike ouderdom hê van 'n kind van 10 of 12? --- Ja.

MNR. SAPIRE: Watter toets het u gebruik om sy fisiese, sy liggaamlike... --- Hoofsaaklik sy liggaamsbou, en die lengte.

En vind u dikwels dat iemand wat miskien 17 jaar oud is fisies so ontwikkel is soos 'n man van 20? --- Die lengte en die ontwikkeling van die been hou op om en by die ouderdom van 21 jaar. Met aktiewe liggaamsoefening kan 'n mens die lengte 'n bietjie vermeerder, maar dit is gewoonlik die vol-groeide lengte. Die volwasse liggaam op ouderdom 20.

Geen verdere vrae deur mnr. Sapiro.

-----

REBECCA NDONGENI : gewaarsku nog onder vorige eed.

CROSS-EXAMINATION BY STATE PROSECUTOR (cont.): What is the name of your youngest child? --- Mavis.

When was she born, do you know? --- 1952.

When in 1952? --- 3rd March.

When was accused No.11 born? --- During 1948.

When in 1948? --- Between September and the end of the year.

Can you read? --- No.

Can you write? --- No.

Did you make any note of the dates of birth of your children? --- No.

How do you remember it? --- Well, Sir, I tell my employer I have given birth to a child on such and such a day.

Are you married? Or were you married? --- Yes, but my husband is deceased.

When did he die? --- During 1952.

When in 1952? You take some time to find the date. Do you know? --- Well being an illiterate person, it is difficult for me to remember these things.

Do you know the State witnesses? --- By sight.

Have you ever had any trouble with any of them? --- Maduna, Sir, I don't know his name - the first one. On the 27th December he called me over to his fence.

What is the trouble you had had with this man? --- There was some argument, Sir, about my son, Accused No.11.

Is that all? --- Yes, and he merely came to report the matter to me. I told him to punish him. To hit him. He said he would not do that, but: "I will get you some other way." Well, thereafter I was arrested.

Your son Daniel Ndongeni, was he arrested during June, 1961? --- He was.

For how long was he detained then? --- 8 months.

Do /...

Do you know why he was arrested? --- It was said that they were arrested at a concert.

Was he arrested during 1964 again? --- Well, he was arrested in 1963, Sir.

What for? --- I don't know. I don't know to this day.

No further questions by State Prosecutor.

MR. SAPIRE: No re-examination.

COURT: You say you know nothing about the A.N.C.? --- Not at all, Sir.

Do you have a son by the name of Gcamfu? --- Yes, Sir.

Is he older than Daniel or is he younger? --- Gcamfu is older, Sir.

Did Gcamfu or Daniel contribute towards the cost of your household when you still had the other children to look after? --- Both of them contributed towards the upkeep, yes.

They brought their money usually on Fridays? --- Fridays.

I think it was your son, No.11, who said that when Daniel ... although that is not what he called him, he called him Piki, when he was arrested you sent No.11 out to work to bring in some extra income, so that the household could be maintained. Is this information given by No.11 correct? --- That is correct, Sir. As a matter of fact I was responsible for getting his papers in order.

The papers of No.11? --- Yes.

When did this take place? --- Your Worship, I didn't make a note of the years. I didn't think anything like this would transpire.

Was it last year? --- I don't know whether he got his book the year before last or last year.

When was Daniel arrested, was he arrested last year or the year before last? --- The year previous to that. Because the whole of last year he was not at home.

So /...

So that means that Daniel was arrested some time in 1963? --- Yes.

And when you sent No.11 to get his papers in order what did you say was his age? --- Round about 14 years, Sir, at that stage.

You know, of course, that you won't get a book for him at fourteen, he can only get it when he turns sixteen? --- That is correct. As a matter of fact, Sir, they refused to issue him with one. I went and pleaded.

And then they gave it to him? --- No, Sir, what they gave him was a piece of paper, some document. They said he could seek work on strength of this permit or paper.

At that time did you inquire what had happened to Daniel? --- Your Worship, I inquired about him in 1963 but failed to ascertain....

What sort of inquiries did you make? --- I inquired from the Detectives.

Are you telling me seriously now, Rebecca, that you never found out what your son Daniel was arrested for or why he disappeared from the scene? And I believe that from that time until now you haven't set eyes on him again? Are you seriously wanting this Court to believe that even today you don't know what this man was arrested for and what happened to him subsequent to his arrest? --- Correct, Sir, I do not know where he is nor do I know what he was arrested for.

And what inquiries did you make except send No.11 to the jail, if that is what you did? Did you go and inquire? --- Your Worship, after No.11, my son, was not admitted I went and visited it and I was admitted.

And did you see your son? --- Yes, I did.

Did you ask him what he was there for? --- Yes, I did. He didn't reply to me because the Detectives wouldn't let us alone.

Did /...

Did you find out subsequently whether he appeared in Court? --- Your Worship, I didn't go to the trial at all, but we heard that he appeared in Court and so forth.

Did you not make any effort to get him legal representation? --- Yes, I did. On one occasion I went and the attorney was out.

Who was this attorney? --- I don't know his name.

Right, so you didn't find him in. Did you go again? --- Yes, Sir, I went to the attorney again and I found him in. He said he would endeavour to try and trace where my son had disappeared to.

Oh, I thought you went to an attorney that was representing your son in Court. Did you see an attorney in order to trace your son, or did you go to the attorney who was going to represent your son in Court? ---- I went to the attorney to find out where my son was. To try and trace him.

Why did you go to an attorney? --- I didn't know where to find my son.

So you just went to an attorney and said: "This is my son's name, I want you to trace him."? --- Yes. I said: "Do you perhaps know where he is?"

Did you manage to find out? --- No, Sir.

Did you go to the attorney again? --- The attorney said that he would write to me, but I was arrested before I got a letter from him.

For this case? --- Yes, Sir.

When was that? --- I was arrested on the 8th January.

Who was this attorney - what is his name? --- I don't know any lawyers really, but I noticed that this particular place I went into was a place of lawyers.

Was he in the building next to the Law Courts? --- At the Law Courts, Sir.

In the government building itself? --- No, Sir, not in /...

in the Law Courts building itself, but in that vicinity.

Where the bank is? --- Higher up than the bank.

MR. SAPIRE: No re-examination.

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

STATE PROSECUTOR ADDRESSES COURT.

MR. SAPIRE ADDRESSES COURT.

U I T S P R A A K.

HOF: Die dertien beskuldigdes is aangekla weens vier oortredings ingevolge die Wet vir Onderdrukking van Kommunisme No.44 van 1955, soos gewysig, en soos gelees met verskeie proklamasies en ander wetsbepalings.

Die eerste klag is ingebring ingevolge Artikel 3(1)(a)(i) van die Wet, gelees met sekere ander bepalinge, en dit is ten effekte dat hulle gedurende die tydperk 8 April 1960 tot 30 November 1964 te Port Elizabeth, wederregtelik en onwettiglik lede geword of gebly het, of ampsdraers was van die onwettige organisasie bekend as die African National Congress, of die "Umkonto We Sizwe".

Die tweede aanklag is ingebring ingevolge Artikel 3(1)(a)(iii) van dieselfde Wet en is ten effekte dat hulle gedurende dieselfde tydperk wederregtelik en onwettiglik bygedra het of bydrae gevra het wat gebruik sou word direk of indirek tot die voordeel van die A.N.C. wat 'n onwettige organisasie is.

Die derde aanklag is ingebring ingevolge Artikel 3(1)(a)(iv) van dieselfde Wet; dat gedurende dieselfde tydperk hulle wederregtelik en onwettiglik deelgeneem het aan die aktiwiteite van die onwettige organisasie, die A.N.C., of handeling uitgevoer het in die direkte of indirekte voordeel van daardie organisasie.

Daar /...



Daar is 'n alternatiewe aanklag tot aanklag 3. Ek ag dit nie nodig om dit uiteen te sit nie.

Die vierde aanklag word ingebring ingevolge Artikel 11(e), gelees met 11(ii) en 3(1)(a)(iv) van dieselfde Wet, dat die beskuldigdes gedurende dieselfde tydperk en te Port Elizabeth toegelaat het, wederregtelik en onwettiglik, dat 'n huis of huise van hulle gebruik word in verband met oortredings wat in Artikel 3(1)(a)(iv) van die Wet uiteengesit is, naamlik dat hulle willens en wetens lede van die A.N.C., 'n onwettige organisasie, toegelaat het om aktiwiteite voort te sit in die direkte of indirekte belang van daardie organisasie deur in hulle huise vergaderings te laat hou of toe te laat dat dit daar gehou word.

Die beskuldigdes het op al hierdie aanklagtes onskuldig gepleit.

Daar is getuienis deur die Staat aangevoer, eerstens dié van 'n lid van die Veiligheidsafdeling en tweedens deur drie ander Bantoes, Staatsgetuies, wat kragtens hulle getuienis saam met die beskuldigdes deel gehad het in die oortredings waarna die Hof so pas verwys het.

Namens die beskuldigdes het al dertien beskuldigdes getuienis gelewer. Dit behels die somtotaal van die getuienis wat in hierdie saak afgelê is.

Die Hof het die geleentheid gehad om die getuienis wat gelewer is, sedert die Hof laas verdaag het, in hierdie saak - ietwat meer as 'n maand gelede was dit, dink ek - sorgvuldig te bestudeer, en ook om vandag, sedert die afsluiting van die Verdedigingszaak vanmiddag, getuienis van die beskuldigdes wat vandag getuig het sorgvuldig te oorweeg. Dit is laat in die middag en ek is dus nie van voornemens om 'n lang opsomming in hierdie saak te gee nie. Ek wil volstaan deur te sê dat wat my benadering betref van die getuienis in hierdie saak, is dit dieselfde benadering wat deur hierdie Hof

gevolg /...

gevolg is gedurende 'n tydperk wat begin het min of meer Mei verlede jaar en wat weldra skynbaar ten einde sal loop. Dit is dat ek die getuienis van die persone wat saam met die beskuldigdes in hulle aktiwiteite of beweerde aktiwiteite van die A.N.C. betrokke was, met versigtigheid sal benader.

Daar is reeds 'n magdom van gewysdes omtrent op welke wyse hierdie getuienis benader moet word. Daar is beslissings in elke afdeling van die Hooggeregshof in Suid-Afrika. Daar is beslissings in die Appèlhof en daar is sommige beslissings waarin belese Regters verwys het na ongeveer elke belangrike of elke rigtinggewende saak, wat nog ooit gehandel het met die wyse waarop hierdie getuienis benader moet word. Dit is nie vir my nodig om na hulle almal te verwys nie.

Daar is uitsprake van die Edelagbare Regter O'Hagan. Daar is die baie onlangse uitspraak van die belese Regter Munnik in die saak van DIE STAAT teen ZITHA en ANDER, wat gerapporteer is in 1965(1) S.A. 166 op bladsy 167. In 'n onlangse saak het hierdie Hof breedvoeriglik uit daardie saak aangehaal want, met respek, daar is 'n uiteensetting waarop in die eerbiedige sienswyse van hierdie Hof nouliks verbeter kan word van wat die benadering van 'n Hof soos hierdie en tewens enige ander Hof moet wees in verband met die weeg van getuienis van persone wat op eie erkenning self deel gehad het aan die aktiwiteite van die A.N.C. en daarna ten behoewe van die Staat getuienis gee teen hulle makkers, of hulle eertydse makkers.

Dit is nie my voorneme om uit daardie saak verder aan te haal nie. Dit is ook nie my voorneme om die getuienis wat gelewer is, op te som nie. Die tyd laat my dit nie toe nie en ek ag dit nie noodsaaklik nie.

Ek het geluister na die betoog van die Verdediging. Die Verdediging het erken dat wat die getuienis betref van Lionel Mbane en Pagamile Njikelana, dat hulle getuienis

aansienlike /...

aansienlike gewig moet dra. Ek dink ek som dit reg op as ek sê - en ek dink ek laat reg geskied aan die betoog van die belese Advokaat vir die Verdediging ~~as ek sê~~ dat feitlik die enigste redelik ernstige bron van kritiek wat hy kan hê op die getuienis van hierdie twee getuies, tussen hakies moet ek meld dit is ook hoofsaaklik kritiek op die getuienis van Alexandria Mbane dat hierdie persone moontlik geïnspireer kan word deur valse motiewe om persone in 'n saak te betrek wat inderdaad onskuldig is. Hierdie motief in hoofsaak sal wees dat deur getuienis te gee, hulle vir hulself sal vrywaar van vervolging.

In hierdie verband het ek nie veel meer te sê as dit: dat die getuienis van hierdie twee persone, Lionel Mbane en Pagamile Njikelana, en natuurlik ook die getuienis van Alexandria Mbane, moet benader word op die wyse wat voorgeskryf is deur die gesaghebbendes, onder andere in die saak van Zitha waarna die Hof reeds verwys het.

Hierdie getuies - ek verwys veral na Lionel Mbane en Njikelana - het mekaar in elke materiële opsig gestaaf. Daar is punte van kritiek op die getuienis van die getuie Alexandria Mbane, hoofsaaklik met betrekking tot die uitkenning van byvoorbeeld beskuldigde No.5. Maar daar is baie ander punte waarop die getuienis van Alexandria Mbane eenhonderd persent geloofwaardig is. Dit is wel waar dat daar punte van kritiek is, maar ek is ook tevrede dat ek nie hier te doen het met 'n persoon wat na die Hof kom, soos wat aan die hand gedoen is in sy betoog vir die Verdediging, en wat 'n vooropgestelde opdrag ~~lyn~~ ~~kan ek hier sê~~, het om hierdie dertien persone in hierdie saak te betrek en dan op 'n roekelose en op 'n onverantwoordelike wyse en meinedig getuig dat hierdie beskuldigdes voor die Hof hulle begeef het in hierdie aktiwiteite van die A.N.C. op die wyse wat die Staatsgetuies hier beweer het.

Hierdie /...

Hierdie getuie Lionel Mbane - hierby gaan ek volstaan want ek het reeds gesê dat ek nie die getuienis gaan opsom nie - het op my 'n baie goeie indruk gemaak. Dieselfde geld vir Pagamile Njikelana.

Alexandria Mbane is 'n man wat nie op dieselfde hoë vlak staan as die ander twee nie, maar daar is ook oorvloediglik staving vir die getuienis wat juis hy gee, in die getuienis van Lionel Mbane en Njikelana. Dit is met betrekking tot die lidmaatskap van al die beskuldigdes van die onwettige A.N.C. Dit is met betrekking tot die gebruik van al die beskuldigdes se huise - in soverre dit No.11 betref die huis waarin hy woon saam met sy moeder, No.13, vir die hou van A.N.C. vergaderings. Dit is met betrekking tot insameling of liever die gee van bydraes by wyse van subskripsiegelde, lidmaatskapgelde deur al die beskuldigdes, die geval ingeslote van die jongman beskuldigde No.11.

Wat die getuienis van die beskuldigdes betref. Ek beseef terdeë dat dit nie toedrag van sake is soos mnr. Sapire betoog het, dat elke beskuldigde se saak op sigself beskou sal word, volkome korrek is. As ek kortliks moet opsom wat hulle saak is: dit is net 'n algehele ontkenning van bykans elke bewering van die Staatsgetuies. Dit was maar hier en daar waar die getuienis, soos byvoorbeeld van beskuldigde No.13, saamgehoop het met die getuienis van die Staatsgetuies, soos byvoorbeeld die tydperk toe sy uit Port Elizabeth afwesig was.

Die getuienis van Lionel Mbane en Pagamile is oorvloediglik staving; staving van so 'n aard dat die Hof nie anders kan as om dit te aanvaar nie; dat al die beskuldigdes betrek was in A.N.C. bedrywighede soos wat daardie getuies beweer het.

Die ontkennings van die beskuldigdes word verwerp. Dit is nie my voorneme om hulle getuienis op te som nie.

Die /...

Die tyd is nie daarna nie en die Hof vind dit nie nodig nie. So 'n opsomming sou ten minste twee na drie ure verg as dit behoorlik gedoen moet word. As dit gedoen moet word, dan sal die Hof dit op 'n later geleentheid wel doen. Hierdie getuie- nis is duidelik in my geheue.

Om net een punt te noem: die ontkenning van die beskuldigdes dat hulle hoegenaamd niks weet van die bestaan van die A.N.C., beskou ek as hoogs - en ek herhaal - hoogs onwaarskynlik. Daar is die getuienis byvoorbeeld van No.13 dat sy, in die omstandighede waarin sy geleef het en ten opsigte waarvan getuienis gelewer is, nie geweet het van die A.N.C. nie, is loutere bog.

Wat betref beskuldigde No.11. Ek het lank gelede 'n jongeling in 'n hof gesien wat met so 'n berekende minagting sy getuienis gegee het en met so 'n uitdagende houding sy posisie in die getuiebank ingeneem het. Sy houding is dié van een wat besluit het om op alles nee te sê en wat konstant daarby sal bly, laat kom wat wil. Sy houding was die gewees van 'n persoon wat met uitdagende minagting sy getuienis lewer.

Beskuldigde No.5, om 'n ander voorbeeld te noem, het sy baardjies laat groei sedert die dag toe hy in die tronk gekom het. Van die paar spriete wat op daardie tydstip op sy wange gegroei het, wat toe bestaan het uit 'n sogenaamde „moustache" wat nou aangegroei het tot 'n groot bokkebaard, het by verskeie kere die aanklaer se vrae ontduik ten einde sy eie saak met betrekking tot die getuienis van Alexandria Mbane te probeer gestand doen omdat Mbane in die eerste geval nie in staat was om hom te identifiseer nie. Dit moet in gedagte gehou word dat, strydig met die betoog van die Verdediging, al die Staatsgetuies nie al die beskuldigdes by elke denkbare geleentheid bygesleep het by 'n A.N.C. vergadering nie.

Daar is die getuienis van Lionel en Pagamile van geleenthede waarby sommige van die beskuldigdes nie by

daardie /...

daardie vergaderings was nie. As ons dan hier te doen het met getuienis van 'n klomp meinedige getuienis geskool in die antwoorde wat hulle moet gee, soos deur die Verdediging beweër in argument, waarom sal hierdie getuies dan nie die kombers laat val oor al die beskuldigdes nie?

In hierdie opsig natuurlik het Alexandria Mbane gefaal. In een besondere opsig waar hy gesê het dat by al die vergaderings waar hy by was was al die beskuldigdes ook teenwoordig. Dit is 'n duidelike toedrag van sake wat glad nie bestaan<sup>het</sup> nie. En dit is die hoofpunt waarop Alexandria Mbane se getuienis aangeval kan word met regverdiging.

Ek kom tot die slotsom dat die skuld van die beskuldigdes bo alle redelike twyfel bewys is as ek in ag neem die beginsels waarvolgens 'n hof die getuienis behoort te benader van persone soos die Staatsgetuies. En met die uitsondering van beskuldigde No.11 word AL DIE BESKULDIGDES SKULDIG BEVIND OP AL VIER DIE HOOFAANKLAGTES.

Wat betref beskuldigde No.11 word hy SKULDIG BEVIND OP AANKLAGTES 1, 2 EN 3, EN HY WORD ONSKULDIG BEVIND OP AANKLAG No.4, aangesien dit duidelik is dat beskuldigde No.11 nie 'n persoon is in wie se huis die vergaderings van die A.N.C. gehou is nie, maar dat dit wel die huis was van sy moeder, beskuldigde No.13.

STAATSAANKLAER lees vorige veroordelings van No.11.

BESKULDIGDE No.11 erken sy vorige veroordelings.

MNR. SAPIRE spreek die Hof toe ter versagting van vonnis.

### V O N N I S.

HOF:

Die beskuldigdes is almal skuldig bevind aan ernstige oortredings. Die wetgewer het dit goedgevind, met afdoende rede, om die African National Congress tot 'n

onwettige /...

onwettige organisasie te verklaar in 1960. Gebeure sedertdien het bewys dat A.N.C. 'n bose en 'n verderflike organisasie was en is.

Gebeure - sake in die Howe en ook sake wat oor 'n lang tydperk deur hierdie Hof verhoor is, op Humansdorp, Graaff-Reinet, Somerset-Oos en weereens op Humansdorp en ook in Port Elizabeth, ten spyte van strenge maatreëls, strenge optrede aan die kant van die Veiligheidspolisie en strenge optrede aan die kant van die Howe, desnieteenstaande het hierdie organisasie voortgegaan om sy onheilswerk in Kwazakele en in New Brighton en Port Elizabeth voort te sit, dag in en dag uit. Daar dien sedert twee en byna drie jaar voortdurende sake van hierdie aard voor die Streekhof van die Oos-Kaap en as daar 'n afname is in die voorkoms van hierdie misdade, dan het hierdie Hof dit nog nie opgemerk nie en dan verval die bewering van die Verdediging dat die rug van hierdie beweging gebreek is. Want hier voor my staan dertien van die beentjies van daardie rug. En hierdie Hof het seker al gehandel met digby die tweehonderd van die ander beentjies van daardie rug. Soos hierdie Hof die saak sien, is daar nog baie van hulle oor voordat hierdie rug gebreek sal wees, want dit is my kennis dat in die nabye toekoms nog twee ekstra Howe nodig sal wees om met hierdie rug te handel, of om dit meer korrek te stel: om te handel met diegene wat na bewering deel uitmaak van hierdie rug.

Daar is geen getuienis voor hierdie Hof gelê dat enige van die beskuldigdes teen sy sin in die bedrywighede en in die boosaardige optrede van die A.N.C. ingedwing is nie. Inteendeel, daar is getuienis voor die Hof geplaas, en dit is nie weerlê nie, dat toe geweldpleging en toe die stigting van die "Umkonto We Sizwe" aangekondig is, is dit met akklamasie en groot vreugde deur almal wat die A.N.C. vergaderings bygewoon het, aanvaar en begroet. Dit het ingesluit beskuldigde

No.11, 'n jong mannetjie. Dit het ingesluit diegene onder hulle wie se koppe eersdaags sal begin knik vanweë die las van die jare wat op hulle begin druk.

Vrywilliglik dus, het al die beskuldigdes hulle begewe in die aktiwiteite van die A.N.C. Maar nou is die argument aangevoer deur die Verdediging dat hierdie Hof hier te doen het met die klein ratjies in die groot wiel van die A.N.C., ter strafversagting. En is met groot erns aangevoer dat as 'n Kommunis wat in die geledere verkeer het van Abraham Fischer kan twee jaar kry, waarom sal hierdie wat voor my staan nie minder kry nie. Die antwoord daarop ken hierdie Hof nie. Hierdie Hof handel met die getuienis wat in hierdie saak teen hierdie beskuldigdes ingebring is, en hierdie Hof handel met diegene wat in die Oos-Kaap, en meer in besonder in Kwazakele en New Brighton hulle verderflike werk in die A.N.C. voortgesit het. As hierdie beeld van 'n masjien dan nou verder gevoer moet word, laat ons hom voer tot sy logiese konklusie, en dit is dit: dat as die kleinste moertjie ontbreek uit die stroomverdeling van 'n motorkar, dan loop staan hy en hy staan permanent, al is dit 'n Rolls Royce of 'n Mercedes Benz, of al is dit die eerste Ford kar wat Henry Ford in Amerika gemaak het. Dan staan hy.

En die A.N.C. is afhanklik van die hidrae van elkeen van julle. En elkeen van julle makkers wat in hulle honderdtalle, dit lyk my soms duisendtalle, in Kwazakele en New Brighton julle bedrywighede voortgesit het sedert 1960. Hierdie beskuldigdes het dit voortgesit tot in November 1964 toe daar oorvloediglik rede gewees het vir hulle om waarskuwing te neem en ag te slaan op wat gebeur met ander wat dieselfde gedoen het, want hierdie sake is nie van vandag af en gister aan die gang nie, en die koerante het voortdurend berigte gehad van optrede van die Howe en beslissings wat

die /...



die Howe gee en strawwe wat uitgereik word teen persone wat in presies dieselfde posisies staan as hierdie dertien beskuldigdes hier vandag.

Laat hierdie Hof dan aanvaar dat hulle die sogenaamde "rank and file" van die A.N.C. was, maar die koningin in 'n miernes die vrek baie gou as die werkers nie die kossies aandra nie. So behoort die A.N.C. lankal 'n jeuglike dood te gesterf het as dit nie was vir hierdie manne wat elke maand hulle 20c bygedra het nie, en elke week of twee 'n konsert en 'n sogenaamde "tea party" bygewoon het nie, om geld in te samel vir die A.N.C. sodat die ratte kan draai, en sodat wat dan buite die gewone "rank and file" staan, kan voortgaan met die beplanning van die ondergang van die land.

Daar is nie by een van die beskuldigdes teenwoordig, en dit volg natuurlik uit die aard van hulle verdediging, 'n sweem van spyt oor hulle optrede. Daar is geen teken en geen getuienis dat hulle enige voorneme het om hulle verderflike weë te laat staan nie.

Ek kry vir beskuldigde No.13 jammer, want sy het as 'n moeder hier gestaan en lieg omtrent die ouderdom van haar seun - die mannetjie wat sedert 1961 al vyf keer in die Howe van Port Elizabeth sy verskyning gemaak het vir sulke oortredings soos: Aanranding met die doel om ernstig te beseer; huisbraak; aanranding met die doel om te beseer met 'n mes; kwaadwillige saakbeskadiging en besit van dagga. Hierdie dinge sal ek vir strafoplegging nie teen hom in ag neem nie, maar hy is nie 'n seuntjie van sestien nie. Toe die sestien jaar storie begin het, het die Hof dit goedgeag om te sê volgens sy sienswyse lyk hy vir die Hof na 19 of 20. Die Assistentdistriksgeneesheer, Dr. Potgieter, wat deur die Hof ingeroep is, het getuig dat volgens sy liggaamlike ontwikkeling en volgens die tande in sy mond, wat 'n mens maar kry as jy 20 is, is hy waarskynlik nie jonger nie as 21. Hy is 'n

man /...

man wat sy plek in die A.N.C. net so volgestaan het soos die res van die volwasse beskuldigdes. Hy was, volgens een van die Staatsgetuies, lid van die sogenaamde "Youth League". Hy sal die gevolge moet dra van sy optrede volgens die wat dit moet dra op wie die las van die jare reeds 'n bietjie swaarder rus as op beskuldigde No.11.

In die beskuldigdes se guns sal ek aanneem dat hulle eerste oortreders is. In hulle guns sal ek aanneem, met die uitsluiting van No.11, dit geld nie vir hom nie, dat hulle mense is, getroude mense - een van hulle 'n weduwee, met verpligtinge van 'n huis en gesin om te versorg. Daar bly nie veel anders oor nie. Dit is ernstige oortredings, dit moet die Hof met strafoplegging ernstig oorweeg. Dit moet in ag geneem word dat wat die getuienis betref daar in sommige van die aanklagtes wat teen die beskuldigdes ingebring is, dit is wat genoem kan word 'n mate van oorvleueling. Die een aanklag is baie nou aan die ander verwant.

Volgens my sienswyse kan ek in daardie opsig die straf van twee rigtings benader. Die een is om 'n sekere straf op te lê en 'n gedeelte daarvan op te skort. Die ander opsig is om die straf in elk geval ligter te maak as wat dit sou wees as 'n deel opgeskort word en dan niks op te skort nie. Ek verkies laasgenoemde benadering.

Ek vind geen regverdiging daarvoor om te voldoen aan die versoek van die Verdediging om die aanklagtes as een te beskou nie. Van al hierdie aanklagtes beskou ek lidmaatskap van die A.N.C. as die ernstigste. Waar ek 'n sekere straf oplê, wat ek weldra aan hulle sal bekendmaak, het ek in ag geneem die kumulatiewe effek van die straf op elke aanklag. Daar het ek in ag geneem, wat betref aanklagtes 2 en 3 wat betref beskuldigde No.11, die feit van sy jeug, maar ek dink ek moet in ag neem daar dat hy 'n harde mannetjie is. Hy het vir die Hof gesê hy maak 'n bestaan uit die speel van 'n dobbelsteentjie /...

steentjie vir 'n sent per gooi. Hy is nie, lyk dit vir my, bedrewe in die kuns van sy brood te eet in die sweet van sy aanskyn nie, maar in die A.N.C. het hy sy plekkie volgestaan onder volwasse mans. Daar is geen getuienis voor my dat hy onder beïnvloeding was van een of ander persoon nie. Sy hele optrede in die Hof was dié van 'n onafhanklike, selfstandige jongman wat op sy eie voete vierkantig op die aarde staan en uitdaag almal wat voorkom; in hierdie geval ingeslote gesag van die hoogste bestuursliggaam van die land.

AANKLAG No.1: BESKULDIGDES 1 TOT 13 (d.w.s. almal van hulle) ELKEEN TWEE EN 'N HALF JAAR (2½ JAAR) GEVANGENIS-STRAF.

AANKLAGTE 2, 3 EN 4: BESKULDIGDES 1 TOT 10 EN BESKULDIGDES 12 EN 13 : ELKEEN EEN EN 'N HALFJAAR (1½ JAAR) GEVANGENISSTRAF OP ELKE AANKLAG.

Die slotsom dus wat betref al die beskuldiges, met uitsondering van No.11, is die TOTALE GEVANGENISSTRAF OP AL HIERDIE KLAGTES DUS SEWE JAAR (7 JAAR).

BESKULDIGDE No.11: OP AANKLAGTES 2 EN 3 : EEN JAAR (1 JAAR) GEVANGENISSTRAF OP ELKE AANKLAG.

Wat beskuldigde No.11 betref dus: OP AANKLAGTES 1, 2 EN 3 : TESAME 'N TOTAAL VAN VIER EN 'N HALF JAAR (4½ JAAR) GEVANGENISSTRAF.

-----  
CERTIFICATE.

I, the undersigned, hereby declare the foregoing to be a true and correct transcription of the original evidence recorded mechanically in the case of:-

THE STATE vs JOHN PATI AND OTHERS.

(Sgd.) L. v.d. Merwe.

TRANSCRIBER.

COPY/M.Delport.

LUBEE RECORDINGS (PTY.) LTD.

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

©2012

**LEGAL NOTICES:**

**Copyright Notice:** All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

**Disclaimer and Terms of Use:** Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of the collection records and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

This document is part of a private collection deposited with Historical Papers at The University of the Witwatersrand.