

forks in exchange for cattle which is not different from what I have already said on this point. Accused no.4 told them about a cell system and drew it for them on a piece of paper. The witness in the witness box drew the system as drawn by accused no.4 and which is before us now as EXHIBIT L. They were requested each to find three persons to be taught how to shoot to get their country back. Accused no.4 also told them how they could burn the O.K. Bazaars. David and Georgina returned to where they were. David came to sit near them under a tree where they were with accused no.4. (10) David repeated what no.4 had said. David asked them to come to the same spot the next day. The next day they met David and sat under a tree at Moreleta where David showed them certain weapons and told them one was a TT pistol and the other a She. These were similar to Exhibits 52 and 53. They were also shown a handgrenade. It is not necessary that I quote the further details as these related to the person David. The next day they met David who showed them how to shoot with a rifle at different objects. A person in a vehicle came and took David away. The items they shot at were handed in (20) as exhibits, and they do have the marks of bullet indents and holes.

In cross-examination the discussion with accused no.4 was denied but it was put to him that it was merely a general discussion. It was denied that no.4 spoke about teaching them to shoot, or about fighting to get the country back.

Johannes Baloyi's evidence which I have summarised is very much the same as that of the other witnesses.

The evidence of Patrick and Raphael in essence again is the same as that of the two Baloyi brothers. The role (30) David played in the firearm demonstration is beyond dispute.

It is difficult to gather from their evidence exactly what role accused no.4 played. He certainly told them about the ANC and the like, but the averments in the Act D(3) have not been proved to our satisfaction.

Act D(4) alleges as follows:

During November 1976 and at or near Vosloorus in the district of Johannesburg, the accused either alone or assisted by Naledi Tsiki recruited and/or attempted to recruit and/or incited, instigated, aided, advised, encouraged and/or procured Alfred Nicholas Mohlaka to become a member and/or supporter of the ANC and/or to undergo military training and instructed the said person in the use of firearms. (10)

The evidence of Alfred Nicholas Mohlaka has already been dealt with under Act B(6) with reference to accused no.2. He described in detail the instructions given him by accused no.4 about the weapons and explosives. He was a good witness and his evidence has not been denied and it was correctly conceded that the State must succeed on that point.

Act D(5) alleges as follows:

During November 1976 and at or near Vosloorus in the district of Boksburg, the accused possessed a firearm, ammunition and an explosive to wit: a Scorpion sub-machine gun with ammunition and a handgrenade. (20)

The evidence of Alfred Nicholas Mohlaka has already been dealt with. It refers i.e. to the weapons used by accused no.4 in the instructions referred to under Act D(4). This Act has been proved and it was correctly so conceded.

Act D(6) reads as follows:

On or about the 2nd of January 1977 and at or near Nooitgedacht in the district of Nebo, the accused possessed fire-arms, ammunition and an explosive to wit: one Scorpion (30)

sub-machine /...

sub-machine gun and ammunition; one Tokarev pistol and ammunition and one handgrenade.

These items were found in the possession of accused no.4 when he was arrested at Nebo in a hut by Lieutenant De Waal and Sergeant Zeelie. This could hardly be denied. It was correctly conceded that this Act must succeed.

From this evidence and the association between him and the other terrorists, the intent alleged in the main count has been proved and was correctly so conceded.

I must now deal with the evidence against accused no.5. (10)
Accused no.5 gave evidence under oath. He is a young Black adult with a light complexion. Nothing could be determined from his demeanour. This is a case whether the facts as testified to by him are reasonably possible. The evidence against him is the alleged statement by him to Thompson Mbutu in the prison in Maputo. I have already dealt with this dispute. Accused no.5 in his evidence explains in detail how he came to be in prison in Maputo. The reason was that the Frelimo soldiers realised that his guia, which is a document given to Mozambicans returning from South (20)
Africa, was false because he could not speak Portuguese. The statement attributed to him by Thompson that he told him that he had come to Maputo to join the ANC was disputed and he gave evidence explaining his position.

In the result it remains the word of one person against that of the other with debating points on both sides. The same applies to his alleged statement to Thompson that he was awaiting air transport to go for military training. The statement attributed to him by Charles Buthelezi that he fled because of the Black Power is in our view on the same (30)
footing. One must remember that Charles Buthelezi was
himself /...

himself at that stage falsely posing as a person who had come to Maputo to join the ANC in order to gain the respect of his inmates. Thompson was also falsely posing as a teacher.

In our view nothing definite can be concluded from these disputes. His unlawful entry into South Africa as described by Inch was somewhat reluctantly conceded by accused no.5 in his evidence in this court. His conversation with Inch on his journey to Johannesburg remains in our view an issue that cannot be determined with any degree of certainty. Inch transported so many people that he could possibly be mistaken. The evidence of both Masuku and Nkabinde fall short to connect him with the ANC. They only said he was recruiting them for an unknown underground movement. The evidence of accused no.5 that he was planning his own movement and was desirous of engaging these three persons for political discussions seems reasonable and possible. (10)

I must refer briefly to the other aspects of his evidence. In 1975 he was so active in the affairs of the Ekukhanyeni Cultural Club that he neglected his studies to such a degree that he failed his examinations that year. He was also busy with the affairs of the SASM, he feared arrest and went to Escort to evade police attention. After the case in which he had been named a co-conspirator was concluded he returned to Soweto. He lived in Soweto during the June 1976 riots but took no part therein. He then decided to go and hide in Mozambique until things had calmed down. He falsely obtained a guia to be able to proceed to Maputo. On the South African side of the border his deceit (20) was not detected. On the Mozambican side however his

deceit /...

deceit was detected and he was sent to prison in Maputo. That is when he had the disputed discussion with Charles and Thompson. He contacted his uncle with whom he had intended to stay. His uncle arranged for him to be released from prison. He stayed with his uncle for some three months until he heard that a South African Minister request that the student leaders who had fled from South Africa should return. He planned to return via Swaziland. He came through Lomahashe into Swaziland and then arranged with a friend, whose name he refused to reveal, for assistance (10) to get to South Africa. This friend took him to one Nkonyana who in turn took him to Inch. He did not know that they were agents of the ANC. Inch brought him across the fence. Then there is the disputed discussion with Inch. Back in Soweto he tried to form a new underground movement which was intended to come into the open once its policy had been finalised. In these efforts he had the discussions with the witnesses. The evidence of Masuku and Nkabinde is not irreconcilable with his testimony. It must also be remembered that accused nos. 1, 2, 3 and 4 and no.6 and no.11 (20) were all residents of Alexandra Township, whereas he was mostly active in Soweto.

Save for the evidence of Onica Mashigo there does not seem to be any connection between him and the persons in Alexandra at the "terrorist den". Her evidence however seemed most unsatisfactory in many respects. The probabilities are in many respects against him, but this is not a case in which a decision can be made against accused no.5 with the stated uncertainties.

His unlawful entry lacks the element of intent as (30) averred in the indictment.

Act E(1) refers to his military training. There is not sufficient evidence to establish such training. Act E(2) alleges that he illegally and secretly entered the Republic of South Africa. This has been proved but as I have indicated lacks the necessary element of intent. Act E(3) alleges that he infiltrated the SSRC either on his own or on behalf of the ANC. There is no evidence to prove this allegation. It merely rests on the assertion by Inch that in the presence of accused no.5 Chiliza had told him that accused no.5 wanted to return to Soweto to give (10) guidance to the SSRC. Act E(4) is that accused no.5 recruited Mafison Morobe, Robert Masethla and Super Moloi to become members of the ANC and/or to undergo military training. There is no evidence in support of this allegation. Act E(5) alleges that the accused took the persons named in E(4) to Swaziland where he introduced them to ANC officials. This rests exclusively on the evidence of Inch and is not sufficiently corroborated to justify a positive finding. Act E(5) and E(6) also refers to these persons with similarly nothing proved. Acts E(7) and E(9) refer to the persons (20) Masuku and Nkabinde, about whom I have already said that their evidence is insufficient to prove the allegations and is not inconsistent with the evidence of accused no.5. Act E(8) refers to unknown persons. This has not been proved. Act E(1) refers to the books "Engels: Selected Writings", "Revolution in the Revolution" and "The Thoughts of Karl Marx" and two pamphlets made available by accused no.5 to Masuku and Nkabinde, and it is alleged that he intended to indoctrinate them with the thoughts expressed therein. There is no evidence to support this allegation.

As regards the witness Masuku and Nkabinde, no.5 explained their discussion as only preliminary in an effort to (30)

to decide on a policy for the new movement he was contemplating.

In our view the case against accused no.5 has not been proved satisfactorily.

I must next deal with the evidence against accused no.6. He elected not to give evidence. It was admitted that the contents of EXHIBIT 70 were found at his house at 57, 11th Avenue, Alexandra. Accused no.11 testified about his knowledge of accused no.6. He tried unsuccessfully to get employment for accused no.6 and ultimately accused no.6 became active in the transport business together with Joseph Tseto. Joseph Tseto was closely associated with accused no.6 in the "Combi for Hire" business, who testified at length about their dealings and his association with no.6. (10)

Before I deal with his evidence I want to refer to the evidence of Victor Sithole. Victor Sithole was referred to in argument as a cocky, an arrogant, witness. I think the trouble between him and his cross-examiner started right at the beginning of his cross-examination. He was asked about where he was presently employed and the present whereabouts of his wife and child. These enquiries about his family clearly annoyed him. He refused to give some of the information, maintaining that his wife and child had nothing to do with this case. He ultimately said that he was a senior operator of computers at the Trust Bank but refused to say at which branch. He is an intelligent and well-educated man. He was occasionally aggressive in his answers. His disappointment with the ANC will be referred to. However, he has a high regard for accused no.6 whom he believed had tried his best to assist him with a scholarship. He had no grievance against accused no.6 personally. He was a person most anxious /... (20) (30)

anxious to further his studies. I think that is the background against which his evidence must be understood. His friend Peter Mohlala from Swaziland took him to the house of accused no.6 in 11th Avenue. No.6 asked Peter whether he had anything from those people in Swaziland. Peter handed accused no.6 a suitcase saying that it contained only R500, to which accused no.6 replied that it was not bad, and took the suitcase to an adjoining room. Accused no.6 was introduced to him by Peter as a person who could get him a scholarship. On that occasion accused no.6 (10) gave a packet of 20 Consulate cigarettes to Peter requesting him to deliver it to "those guys in Swaziland". It was arranged that he would meet accused no.6 the following day at Diepkloof about his scholarship. He was subsequently shown some writing on the inner part of the cigarette box by Peter given to him by accused no.6. This was apparently a secret message.

As arranged, he met accused no.6 on the following Wednesday, who took him and introduced him to one John Nkadimeng, photo O, as the person from whom Peter had (20) brought the money and to whom he would give the message for Cynthia's good relatives in Swaziland. Then followed a discussion about his scholarship. He was then offered a job to run a bursary scheme. This was unacceptable to the witness. He was questioned at great length about his personal affairs and a bursary scheme which seemed to me finally to have been of no significance in this case. There is not sufficient evidence on this score to think that the money which accused no.6 had received could have been intended for this bursary scheme. But even so, it would have been an (30) ANC undertaking. The evidence about receiving the money was

however /...

however not denied. On a subsequent occasion accused no.6 gave him a similar cigarette box with the request to deliver it to Peter in Swaziland with the request that Peter must deliver it to "those guys". He said it was urgent and he must bring a reply. He then delivered the cigarette box and message to Peter in Swaziland. Peter took him along to the people concerned but these could not be found. The following day the relevant person was found, and one Albert, Exhibit P, being Albert Dlomo, was introduced to the witness. Albert opened the box, read what was contained inside, and returned it to Peter saying that it was intended for a person in Botswana by the name of Thabo. (10)

It must be then remembered that Albert Dlomo was one of the ANC persons named by the witness Inch. He came back to Alexandra and reported all to accused no.6 who showed his annoyance at Peter having taken him to Albert personally. Later he went to Gaborone in Botswana where he met Thabo Mbeki, photo C. After his return he met accused no.6 in the company of accused no.7 and another person. He then reported to no.6 what had happened in Botswana. He was then (20) told to wait for the arrival of a lady from London to help him with his scholarship. Accused no.6 told him to meet the lady from London at a certain place at a certain time. At the appointed place he was with accused no.6, the lady from London, Mrs. Qwabi, John Nkadimeng and Alois Mancini, photo G. Accused no.6 introduced him as the person who helped them with the messages to Swaziland. His scholarship was discussed and he was told to await the arrival of Mr. Qwabi. It must now be appreciated that Alois Mancini was one of the persons involved in the Bordergate explosion, and (30) John Nkadimeng was a well-known ANC personality in

Swaziland./...

Swaziland. The lady reported to them of the expulsion of certain members of the ANC in London. Accused no.6 was requested by her to recruit suitable persons in the place of those ANC members who had been expelled. They discussed the finances to find such substitutes and their required qualification for such election.

In cross-examination the point was made that it was improbable that any discussions concerning ANC affairs would have taken place in his presence. This is not a valid criticism because he had already at that stage delivered the secret messages and he had already met Albert Dlomo. Subsequently when he visited his relatives in Swaziland Peter asked him to deliver a book to accused no.6. To his surprise it was a blank book with lines and no writing in it. He delivered the book to accused no.6's residence during his absence. Accused no.6 came to his place of employment and acknowledged receipt of the book. On the 16th of April, 1976, he conveyed accused no.6 to Peter in Swaziland. On the way accused no.6 explained that he had to meet some ANC officials in Swaziland because Albert and Thabo had been arrested and that he must try and get them out of jail. In Swaziland accused no.6 was fetched by the said Stanley Mabizela. He brought accused no.6 back to South Africa and at the border he discovered that accused no.6 used the passport of his neighbour. EXHIBIT 63 partly consists of this falsely used passport and which is the passport of one Joseph Tseto. Accused no.6 used it on that occasion. On the way back accused no.6 told him about his discussions and that he had met certain ANC officials with Mabizela and that he had requested another ANC official, Mabhida, to supply him with funds to run the ANC in South Africa, and that amongst other things they wanted to buy a farm in

South Africa for short term military training.

In cross-examination the point was made that at the previous hearing he had named the price of the farm whereas in the present case he did not. It was subsequently corrected. Back in South Africa he was given two pamphlets by accused no.6 to read dealing with Potlako Leballo, the PAC leader, being a stumbling block to the liberation of South Africa. Even Mr. Qwabi from London could not help him to get the required scholarship. In Swaziland Mr. Qwabi arranged that he be given a parcel of R2,000 in R10 notes to be delivered to accused no.6 in Alexandra which he did. Out of this amount accused no.6 gave him R60 for his expenses. This evidence must now be understood as the corroboration of the evidence that accused no.6 had told him that he was to get money from the ANC in Swaziland. The receipt of these amounts was not denied.

(10)

Finally he was asked by accused no.6 to join the ANC cell which already had as its members accused no.6, John Nkadimeng and Alois Mancini. This led to the final break between him and the ANC people because he then realised that they were merely using him to deliver messages because he had relatives in Swaziland and were not truly intending to obtain for him the scholarship which he so anxiously sought. This witness left us finally with a very favourable impression. He was clearly a very intelligent man who was most anxious to further his studies, and his evidence must be given the weight which it is in law entitled to.

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I must next deal with the evidence of Joseph Tseto. He and his wife lived at the same premises at 57, 11th Avenue, Alexandra Township, as accused no.6, until they moved to

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62, 11th /...

62, 11th Avenue, which is situated diagonally across the road. He and accused no.6 had been friends for many years. Accused no.6 was older than himself and he regarded him as such and treated him with respect. He started working for Standard Bank at Bramley in 1974. His house was a shebeen and he had film shows and the like which caused people to frequent his premises. During 1975 he bought a Combi for himself. During July, 1976, he bought a Combi on hire purchase in his name at the request of accused no.6 although it was intended to be a Combi for accused no.6. (10)

Accused no.6 gave as reason for this request that he, no.6, would not be allowed to buy on HP agreement because he was not in employment, and did not have a driver's licence. Accused no.6 intended to earn money with the Combi. The Combi was purchased on the 27th of July, 1976, and no.6 gave him the R1,000 deposit. The Combi is depicted on Exhibit 64, photograph 27. This Combi was regularly parked at the house of the witness at 62, 11th Avenue, Alexandra. The keys of the Combi were left with accused no.6 when it was not used. On an occasion during August, 1976, accused (20)

no.6 introduced him to Alois Mancini and Norman Shabalala, being respectively the persons on photographs G and F. They hired the Combi for a trip to Nelspruit and paid him R80 for the hire thereof. These two hired the Combi on a second and other occasions. On that occasion accused no.6 said in reply to a question why they wanted the Combi during the week, that they were his comrades and church people. Subsequently by arrangement with accused no.6 he sold the old Combi to Alois and Norman for R2,000, the garage having offered him R1,800. Accused no.4 was also present at (30)

that stage. A further Combi was purchased on which a deposit

of/...

of R3,000 was paid. This consisted apparently of his R2,000 plus R1,000 obtained from accused no.6, being a loan of R700 plus a repayment of R300 in respect of repairs which he had previously paid to accused no.6. The Combi is the one in photograph 26, Exhibit 64. The financial arrangements between them were not finalised as they trusted one another. All the relevant papers were kept by accused no.6.

On an occasion accused no.6 asked him to let the new Combi to Alois Manco and Norman Shabalala for a journey to Swaziland. On that occasion Norman addressed him as "comrade" in the presence of accused no.6. In answer to this question why he had been addressed as comrade, Norman replied: "Don't you know that we work together here and when we work together we must refer to each other as comrade". Afterwards he asked accused no.6 about this remark to which accused no.6 replied: "Don't worry, he was drunk", and told him that they would return with another person from Swaziland and would tell him how they worked together. (10)

In cross-examination he said that accused no.6 did not tell him what this person would say to him. (20)

We accept only the uncontested part of this evidence. That such a person did return with Alois and Norman in the person of David Ramusi was testified to by the witness. From what I have already said these persons were on the scene of the Bordergate explosion on the 30th of November, 1976. On the arrival of this person, accused no.6 took Alois and David outside the house where they had a private discussion. It was then arranged with the knowledge of accused no.6 that David would speak to him the following Wednesday. After their arrangement had been made he drove accused no.4, who was/... (30)

who was also there at that stage, Norman, Alois and David to 7th Avenue. From other evidence we know that they lived at what I have already described as a "terrorist den" at 124, 7th Avenue. The following day he was sent by accused no.6 to fetch these four persons from the house of accused no.11. On the appointed Wednesday Norman, Alois and David arrived at his house. The witness, David and Alois went into the diningroom. The door was closed. He was told to write down what he would be told, but because he was illiterate he could not comply with the request. He (10) was asked to become their transport manager. From the plastic bag which David had with him he produced two guns, a handgrenade and four sticks of dynamite. He then described the demonstration of the weaponry to him and Alois. After the demonstration David took out a third gun which he described as a 45 TT and identified by the witness as similar to Exhibit 53. In the handgrenade was TNT powder. The working of the handgrenade was then explained to him. He identified it as being part of Exhibit 28. David promised him more and the session was rounded off by having liquor (20) in which accused no.4 apparently joined them.

On another occasion about the following Friday David and accused no.4 and a third person came to him. This person was accused no.2. It is on this occasion that David said of him to the others : "Hy is nog nie gaar nie". This allegation was denied in cross-examination. The possible meaning of this statement is that his training had not been completed. He again fetched David, accused nos. 2 and 4 from the house of accused no.11. While at work accused no.6 came with Norman and Alois to get the keys of the Combi to go to (30) Brakpan leaving him the Ford Fairmont by which they had

arrived./...

arrived. Accused no.6 said that the Ford Fairmont belonged to Henry Makgothi. Those that came that afternoon were Norman, Alois, accused no.2 and no.4 and six unknown men. Amongst them was accused no.1. He was then requested by accused no.6 to give them the Ford Fairmont. He further described the use of this Combi by Norman, Alois, David and the other accused, which included a trip to Sekhukuniland. The Ford Fairmont was on an occasion used by David, accused no.1, no.2, no.4 and no.6. He described how on three occasions he was asked by accused no.6 to deliver a letter (10) to John Nkadimeng in Swaziland and on each occasion came back with R1,000 and a letter in reply which he delivered to accused no.6. On a fourth occasion he was given a packet of money wrapped in brown paper by Stanley in Swaziland for delivery to accused no.6, after he had been sent by accused no.6 to the person Stanley with a letter. It was admitted during argument that these amounts were received from people who were connected in some way with the ANC in Swaziland. I therefore need not refer to the evidence identifying these persons. (20)

On the 29th of November, 1976, Norman and Alois took the Combi for a trip to Swaziland. The following day he went to Louis Trichardt and returned on the 3rd of December, 1976. The happenings at 62, 11th Avenue in the meantime were testified to by his wife, Martha Tseto. On his return his wife told him about what had happened to Norman. He went to Lesotho and on his return on the 7th of December he was handed a letter asking him to call on Warrant Officer Potgieter at John Vorster Square. He did so and returned home. On about the 13th of December he again conveyed (30) accused nos. 1, 2 and 4 to Dube and 7th Avenue, Alexandra.

On the/...

On the 15th of December accused no.1, no.2 and no.11 came to his home on which occasion he drove accused no.11 to his home and the others in Dube and back to 7th Avenue, Alexandra. He described how he encountered road blocks on that occasion. He saw accused no.1 again on the 21st of December and took him again to the house in Dube where he was going to sleep. On the 29th of December accused no.6 wanted the Combi to proceed to Pietersburg. He took the new Combi leaving him the Fairmont. On the 30th of December, 1976, accused no.6 asked him to fetch accused no.1 and no.4 (10) from 7th Avenue and to take them to the house of Onica Mashigo in 10th Avenue which he did. He took the old man with him to his work, the old man being Solly, the driver, so that he could return with the Combi. The police arrived at his place of employment that morning and at about eleven he was taken into custody.

I must also mention that his passport was to the knowledge of accused no.6 kept in a certain drawer at his home. He denied having used it on the 16th or 17th of April, 1976. Being an accomplice his evidence must be treated (20) with the necessary caution. For our purposes we accept only that part which was not denied and sufficiently corroborated. It establishes beyond doubt a very close relationship between accused no.6 and the terrorist den.

In our view what is of importance is that accused no.6 told him that a person would return with Alois Mancini and Norman Shabalala from Swaziland and would tell him how they work together. Such a person being David Ramusi did return with them, who was according to the greetings known to accused no.6. He was later told by accused no.6 that David (30) would talk to him and the arrangement was made with the knowledge/...

knowledge of accused no.6 for David to talk to him. Admittedly he did not say what David was going to tell him. The talk we know was the demonstration of the firearms. From this undisputed evidence flows the only conclusion, that accused no.6 had arranged for his military training. To speculate that accused no.6 did not know what it was all about is in our view unrealistic and cannot reasonably be possible. The nature of the training indicates the intent to violence. Seeing that it was admitted in argument that these amounts came from persons who were all associated with the ANC makes it unnecessary that I refer to that evidence in further detail. The same applies to the money brought to accused no.6 by the witness Sithole, being R2,500 in all. (10)

In our view it is far fetched to regard it as reasonably possible that those amounts were intended for any other purpose than the affairs of the ANC as is alleged for running the ANC.

The next witness I must deal with is Martha Tseto, who was by way of an exception not an accomplice. She is a sophisticated and an intelligent Black woman and made a most favourable impression on us. They lived at 57, 11th Avenue, Alexandra in the same premises as accused no.6 until some time ago when they moved across the road to no.62, 11th Avenue where they lived. Her husband owned a Combi and acquired a second Combi which was new during October, 1976. She identified the two Combis as being photographs 26 and 27 in Exhibit 64. She also identified no.1 as a person who often came to see her husband during November/December. Her husband and accused no.1 would on such occasions leave together for Soweto. If her husband was not there he would leave (20)

a message/...

a message that her husband should meet him at 6th Avenue or 7th Avenue.

The witness, Abinar Mathabe, a taxi driver, testified how accused no.2 took him to the house at 62, 11th Avenue, where he found accused no.1 and took him to Nebo to which I have referred. She also identified the person on photograph A, David Ramusi, as a person who had come to her house accompanied by accused no.4, Bafana. She did not come to know the name of the person on photograph A. That is of course David Ramusi. They were also accompanied by accused no.2 at times. It must be remembered that photograph A as I have indicated is the person David Ramusi who had gone to Tanzania with Charles Buthelezi and was also known by the name of Dan. Accused no.11 once came to the house to hire a Combi. On the 19th of November, 1976, while her husband was away, accused nos. 2, 3, 4 and 6 came to her house and requested the Combi which her husband was using at that stage for a journey to Pietersburg. They left when they could not wait longer for the return of her husband. She also identified Exhibit 64, photograph 28, as the motor car used by accused no.6, being the Ford Fairmont, with an old man, Solly, as his driver. They had a braai at their home on the 27th of November, 1976. They also ran a shebeen and occasionally had film shows. A number of people attended the braai, amongst them was David Ramusi. On the 29th of November, 1976, being the occasion on which Norman took the Combi, Exhibit 64, photograph 26, accused no.6 told her that Norman would use it on a trip to White River for building purposes. It is to be noted that she said that her husband on that occasion had already left for Pietersburg, whereas he said that he had left only the following day. On

Wednesday, /...

Wednesday, the 1st of December, 1976, accused no.6 came to her with a newspaper, the Rand Daily Mail, and showed her that according to the newspaper report an accident had taken place at the border, and that the people involved in the accident had been sent for by him. He said that he had made arrangements with Norman to meet the people involved. On Wednesday afternoon she saw the Combi parked in front of the house of accused no.6. Accused no.6 told her that the Combi had bloodstains and that Norman had taken the injured persons to the hospital and that Alpheus Ramokgadi would wash it. He also told her that he would have to hide Norman because he was afraid that he might be in trouble. After that day she had not seen Norman anywhere. After this incident accused no.6 was taken by car to sleep at 15th Avenue. On one of these journeys when Joseph brought R1,000 to accused no.6 it was actually conveyed in her hand-bag. On that occasion accused no.11 took part of the R1,000. Alois Mancini also visited her husband from time to time.

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In cross-examination it was brought out that accused no.6 was involved in politics and that she did not take kindly to her husband's association with him, and that her husband refused to discuss his association with accused no.6 with her. The conversation about Norman was denied. Her evidence was criticised on three points. The first is that initially at the previous trial she said that the day on which the newspaper report was shown to her was the 30th of November. Only when the actual newspaper report dated the 1st of December was shown to her did she admit that she had made a mistake as to the date of the report. She is now criticised for having said at this trial that it was on the 1st of December. This is in our view no real basis of

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criticism because when the newspaper report was shown to her at the previous hearing she corrected the date. The second point of criticism is that she was uncertain of who came first to her house on the 29th of November, 1976. At the previous trial she said that accused no.6 came before Norman, and at this trial she said Norman arrived before accused no.6. This likewise in our view is no real criticism, and one must have regard to the dates and the like. The third point of criticism is the date on which she saw accused no.1 for the first time. At the previous trial she said more or less September, 1976. And at a stage she said it could have been November, at the previous trial. Well, November is still more or less September. But she was certain it was after they had acquired the new Combi. She also said that since the previous trial she had thought about it and thinks it was later, possibly November or December. It is also suggested that she may have a motive to protect her husband. These are the criticisms on which we are asked to reject her evidence, although accused no.6 has elected not to give evidence at this trial.

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(20)

As I have indicated she made a favourable impression on us. She explained her position and what she could remember calmly. We have no hesitation in accepting her testimony. We are mindful of the criticisms and differences to which I have referred.

Then there is an alternative argument that if we accept her testimony it is possible that Norman could have told accused no.6 that he was in trouble with the police and needed to be concealed. This argument does not have regard to the fact that accused no.6 also told her that he had sent Norman to fetch these people. Her evidence must

(30)

be weighed together with the criticisms thereof, and in relation to the totality of evidence which applies in respect of this accused.

Then there is the evidence of Alpheus Ramokgadi. He is the brother of accused no.6 and lived at 20, 15th Avenue, Alexandra. After the death of the wife of accused no.6 he told him that his company had bought him a Combi and that he had engaged old Solly as his driver. There is corroborating evidence that Solly was in fact his driver. He also said that the Combi had not been purchased by no.6 with the (10) money collected after the death of the wife of accused no.6, because accused no.6 had told him about the purchase of this Combi before the amount was collected. On an occasion he found Norman Shabalala and Alois Mancini and accused no.6 counting a pile of R10 notes at the house of accused no.6.

In cross-examination it was put that accused no.6 has no recollection of such an event to which he replied that the accused no.6 knows full well about it. This event took place about August, 1976. He testified about three trips he had made to Nelspruit at the request of accused no.6. On (20) the first of these trips he took Alois Mancini to Nelspruit after having picked Norman Shabalala up together with four boys at the corner of Corlett Drive and Louis Botha Avenue, Johannesburg. It was admitted that that trip was arranged by accused no.6. Near Jan Smuts Airport they found the Combi which they had followed to Malelane. In this Combi were a number of persons including accused no.4. Accused no.4 returned with him to Johannesburg. He also described the details of the two other trips, one of these included accused no.7. We are not satisfied with his identification (30)

of /...

of accused no.7 as the person with the dark glasses and an attache case who had also been picked up at the same spot as the persons on the first trip. It was put to him that Alois Mancini had arranged the second trip and not accused no.6, which he denied. After these trips he was summoned to the house of accused no.6 who showed him the new Combi and a week later he was shown the Ford Fairmont, and on that occasion accused no.6 told him that he now had enough transport and would not bother him again about his vehicle. We thus have it as a fact that accused no.6, (10) who was a person as described to us by accused no.11, now finds himself as a shareholder at least in two Combis and a Ford Fairmont at his disposal. On the 31st of December, 1976, the witness, One Night, came to him and made a report to him which he had to convey that night to accused no.6 near Pietersburg using the Ford Fairmont. This is confirmed by One Night. He said that One Night had shown him a plastic bag before he left for Pietersburg. This was denied by One Night. On an occasion accused no.6 introduced accused no.4 to him as one of his soldiers. When this statement (20) was denied in cross-examination it received the reply: "How did I then know about it". In cross-examination it was put to him that no.6 might have been joking, but when that suggestion was denied the denial was put to him. About the end of November, 1976, he saw the new Combi, photo 26, arrive at the house of accused no.6. It was driven by a person unknown to him. He found bloodstains in it and had it washed at the garage in Norwood. After his arrest the police enquired from him about the whereabouts of his brother. He refused to tell them because he wanted to protect his brother. (30)

After /...

After threats of violence by the police he took them to his brother's home near Pietersburg, but on arrival it was discovered that his brother had already been arrested. As I have said there are unsatisfactory features about his identification of accused no.7.

It is clear from his evidence that the association between accused no.6 and the members of the terrorist den at 124, 7th Avenue was more than mere acquaintanship and ordinary business transactions. The overall impression of him is that he is not falsely implicating his brother. (10)

The witness Theophillis Thangalane referred to in the evidence in this case as "old Solly" was the driver employed by accused no.6. He described his numerous trips at the request of accused no.6, when he conveyed some of the accused, amongst these was one occasion when accused no.2 and accused no.4 were conveyed in the company of accused no.6 to the house of accused no.8 at Nebo in Sekhukuniland. I think this as far as accused no.6 is concerned shows his association with these people. The suggestion was that it was merely a trip from Pretoria to Pietersburg which went via Nebo. That may be so, but the fact remains that these trips were undertaken with accused no.6 being present. (20)

The evidence of Alfred Mathibe and Onica Mashigo do not seem to take the matter any further.

The evidence of Inch with reference to the "wedding cakes" he fetched from the house of accused no.6 I have already mentioned. It is also a fact according to the admissions that a letter written by accused no.10 under the name of Whitey was found at the home of accused no.6, as were the postal orders to which I have already referred, one of them being made payable to Nelson Mandela. (30)

As to /...

As to the incident of the wedding cakes testified to by the witness Inch there is not sufficient corroboration.

I must now deal with the allegations specifically made against accused no.6. Act F(1) is that:

During or about the period June 1976 to January 1977, the accused was a head of the General Structure and/or Main Machinery of the ANC in Johannesburg.

We have regard to the criticism of these witnesses' evidence in the totality of evidence to be considered, but just resting on the evidence as a whole, that allegation we find has not been sufficiently established. (10)

Act F(2) reads as follows:

During or about the period January 1976 to December 1976 and at or near Alexandra in the district of Randburg, the accused received the following amounts among others to be used for the running of the ANC on or about the dates mentioned hereafter:

- (a) R500-00 - January 1976;
- (b) R2000-00 - May 1976;
- (c) R2000-00 - July 1976;
- (d) R1000-00 - August/September 1976;
- (e) R1000-00 - November 1976;
- (f) R1000-00 - December 1976.

The receipt of these amounts was not disputed. It was also admitted that these amounts were received from persons connected to the ANC in Swaziland. The evidence of Joseph Tseto, Victor Sithole, is conclusive. It is clearly intended to be used for the running of the ANC. (20)

The cross-examination about the Luthuli Memorial Fund in our view does not detract from the obvious, flowing from the receipt of these amounts. (30)

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