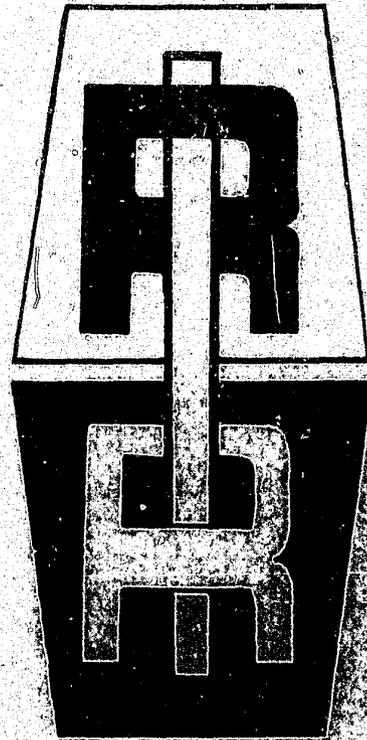


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ACQUISITION 3

SECURITY AND RELATED TRIALS IN SOUTH AFRICA

July 1976 - May 1977

Research Department, S.A. Institute of Race

Relations

R1,20

INTRODUCTION

This report documents the proceedings and results of a variety of security and related trials over the period July 1976 to May 1977. Not all such trials are included. Major security trials concluded during 1976 are summarized in the 1976 Survey of Race Relations. Other security trials may have proceeded without coming to the attention of the writer. Although an attempt is made in the ensuing summaries to give a true reflection of the proceedings it has been impossible, in terms of available space, to give a complete account of each trial. Attention has been paid to more noteworthy aspects while at the same time both the defence and State sides of a case have been reflected wherever possible. Press articles have been used as the sources for most accounts, although direct references have not always been given due to the confines of space. In addition, members of the legal profession have been very helpful in providing information to fill in gaps where they existed. Complete information has not been obtained for a number of cases.

Trials have been categorized according to place of trial. All dates mentioned refer to the year 1977 unless otherwise stated. Surnames are sometimes used without titles for the sake of brevity and reflect no lack of deference to the persons concerned.

Newspapers Used in Research

Argus
Beeld
Die Burger
Cape Times
Daily Dispatch
Daily News
Eastern Province Herald
Natal Mercury
Natal Witness

Star
Sunday Express
Sunday Times
Sunday Tribune
Transvaler
Weekend World
World

27 May, 1977

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Summary of Security Trials Contained in this Report

<u>Legis- lation</u>	<u>Number Charged</u>	<u>Charges with- drawn</u>	<u>Acquitted</u>	<u>Convicted</u>	<u>Convicted of lesser charges</u>	<u>Cases Proceeding</u>	<u>Total Years Imprison- ment</u>
Terrorism Act	60	3	14	11	-	32	79
Internal Security	7	-	1	-	-	7	-
I.S. & Unlawful Organisa- tions	1	-	-	1	-	-	3
Unlawful Organisa- tions	1	-	-	1	-	-	3
Terrorism Act & Sabotage	2	-	-	2	-	-	16
Explosives	1	-	-	1	-	-	3
Sabotage	302	43	85	94	14	65	562
Unlawful Organisa- tions & Terrorism Act	4	-	1	-	-	3	-
Totals	378	46	101	110	14	107	666

Note: Alternative Charges are not reflected in this table.

Brief Description of the Security Legislation implemented in the Cases Below

Terrorism Act, 1967

In terms of this Act terrorist activities are widely defined. If an accused is found guilty of having committed any act included in the list enumerating offences, the onus is on him to prove that his intention was not to commit terrorism. The minimum sentence for conviction for terrorist activities is five years' imprisonment. The death penalty can be imposed.

In terms of Section 6 of the Act an officer of the police of or above the rank of Lieutenant-Colonel may order the arrest without warrant and the detention for interrogation of any person whom he has reason to believe is a terrorist, or is withholding information relating to terrorists or to offences under the Act. A person can be detained incommunicado indefinitely. No court of law may pronounce upon the validity of any action taken in terms of the detention provisions of the Act. If circumstances so permit a detainee is visited in private by a magistrate at least once a fortnight.

Internal Security Act, 1950 (Previously called the Suppression of Communism Act until amended in 1976)

The Minister is empowered to direct that a person should be detained in custody in a prison area for a specified period if he is satisfied that the person is engaging in activities which endanger the security of the State. (Preventative Detention.) A further provision is that whenever, in the opinion of an attorney-general, there is any danger of tampering with or intimidation of any person likely to give material evidence in a trial in terms of the act, the attorney-general may order the arrest and detention of such person. (Section 12(a)) Such a witness can be detained for any period up to six months. Unless permission is granted, no one can have access to such detainees. These same provisions are contained in the Criminal Procedure Act as amended in 1977.

The terms of the Suppression of Communism Act and the offences created thereby, were embodied in the revised act.

Unlawful Organizations Act, 1960

In terms of this Act the Government was empowered to declare certain organizations unlawful. This power was used against the ANC and PAC as well as the Congress of Democrats and other organizations. Any person who performs any act calculated to further the aims of an organization declared unlawful or who continues as a member is guilty of an offence and liable upon conviction to a term of imprisonment not exceeding ten years.

Sabotage

The offence of Sabotage was created by the General Law Amendment Act, 1962. It provided that penalties on conviction would be those laid down for the offence of treason, which may include the death penalty. If a sentence of imprisonment is imposed this must be a minimum of five years in length. (Section 21 of the Act).

Explosives Act, 1956

In terms of this act, as amended a minimum sentence of 5 years is imposed if a person is convicted of intending to use explosives for the purpose of injuring any person or damaging any property. The onus is on the accused to disprove any suspicion.

SECURITY TRIAL SUMMARIES

1.1. JOHANNESBURG MAGISTRATES COURT

(29.9.76 - 21.2.77)

Accused: Paulus Khubeka(25)
Petrus Zungu(26)
Aaron Nene(35)
Ephraim Khumalo(32)
Alson Sithole(32)
Pius Ndlovu(30)

Charge: Sabotage

Summary: The accused were alleged to have set fire to a municipal bus in Kensington on 15 September 1976. Case postponed to 14.10.76. Thereafter further postponed. The State withdrew charges against all the accused except Paulus Khubeka. State witnesses gave eye witness accounts of Khubeka's participation.

Judgement:Khubeka was found guilty and sentenced to imprisonment for 7 years.

1.2. RAND SUPREME COURT

(4.2.77)

Accused: Pukumu Stephen Mohamme(23)

Charge: Terrorism Act.

Summary: Mohamme pleaded not guilty to charges of having twice visited the vegetable counter at O.K. Bazaars, Eloff Street, Johannesburg during the Soweto disturbances and reading from a pamphlet urging blacks to kill whites. The pamphlet was entitled "The voice of the black people in South Africa."

Judgement:He was found guilty and sentenced to imprisonment for five years. (Rand Daily Mail 4.2.77) Mr. Justice Myburgh described the pamphlet as serious incitement.

1.3. JOHANNESBURG MAGISTRATES COURT

(29.9.76 -

Accused: Zacharia Maholobela(34) - 21.8.76.

Charge: Internal Security Act

Summary: Charges were that he took part in the activities of a banned organization, the ANC, by distributing its official mouthpiece entitled "The voice of the ANC spear of the nation - the war is on." He was arrested in Commissioner Street on 12 August 1976. No evidence was led and the case was postponed to 15 October. (World 30.9.76.)

1.4. JOHANNESBURG REGIONAL COURT

(19.1.77 - 1.3.77)

Accused: Edith Thenjiwe Mbala(50) - Johannesburg switchboard operator.

Charge: Furthering the aims of an Unlawful Organization and possession of indecent or obscene photographic matter.

Summary: Mrs. Mbala was allegedly found reproducing pamphlets entitled "Amandla Soweto" said to have been issued by the ANC and which she intended to distribute. Mr. C.J. van der Merwe, head of the department of political science at the Rand Afrikaans University, gave evidence for the State and said that pamphlets described the white government as murderers who killed innocent people.

Judgement: Mrs. Mbala was found guilty of reproducing the pamphlets on an office photostat machine on 9 July 1976. The magistrate said the pamphlets were an inflammatory call to arms a few weeks after the Soweto riots, and called for confrontation with authority. Mrs. Mbala was sentenced to imprisonment for three years for furthering the aims of the ANC.

1.5. JOHANNESBURG MAGISTRATES COURT

(25.1.77 -

Accused: Khehla Cleopas Shubane(20)
Rita Alita Ndzanga(43) (Wife of Lawrence Ndzanga who died in detention on 8.1.77.)

Charge: In terms of the Terrorism Act.

Summary: The two accused appeared in court on 25 January. Lawrence Ndzanga was to have appeared as a co-accused with them. Mrs. Ndzanga was released on R5 000 bail and Shubane was remanded in custody. The trial was further remanded on 17 February to 3 March. On that date it was postponed to the Springs Circuit Court for trial on 18 April.

The trial resumed in early May. The State alleged that both accused recruited students for military training in Botswana. On 9 May a student of 15 years, held in security detention, gave state evidence regarding a trip to Botswana from Mr. Ndzanga's house with other students. He said that Shubane had told him the journey was planned for people to undergo military training. The students lost their way and were arrested on 10 November. He said that he had wanted to get out of South Africa because he thought the police were after the students.

1.6. RAND SUPREME COURT

(17.3.77)

Accused: Archibald Kabane(24) Postal messenger at Crown Mines.

Charge: In terms of the Explosives Act.

Summary: State evidence was led to show that Kabane had 40 sticks of dynamite, two sticks of blasting cartridges and 30 igniters in his possession on 10 December 1976. He showed police where the dynamite sticks were hidden in a flower bed and in his scooter. Kabane told the court he wanted to use the explosives to blow up a safe to get money. He said he did not know how to use explosives.

Judgement: Mr. Justice Hiemstra sentenced him to a compulsory minimum sentence of 3 years. He told the accused: "If I had a free discretion I would have sentenced you at the most to one year in jail. I am sorry that the Explosives Act compels the court to pass a minimum sentence of three years". The judge pointed out that Kabane was naive and did not intend to endanger the safety of the state. (Rand Daily Mail 18.3.77.)

1.7. JOHANNESBURG REGIONAL COURT

(22.3.77 - 23.3.77)

Accused: Jan Malatji(26)
Kerwin Zwane(26)

Charge: Furthering the aims of an unlawful organization and in terms of the Internal Security Act.

Summary: Both pleaded not guilty to charges of furthering the aims of communism but guilty to charges of furthering the objects of the ANC, a banned organization. The State did not ask for a conviction on the first charge. The State alleged that Mr. Malatji had 20 to 30 pamphlets entitled "Umkonktho We Sizwe" in his possession. He was alleged to have posted several to addresses in Botswana, Johannesburg and also to the University of the Witwatersrand. The two allegedly experimented with smoke bombs and bucket bombs to distribute pamphlets in March 1975. A letter was sent to Radio Moscow. Broadcasting times were received from Radio Moscow and radio Peking. (Star 22.3.77).

Judgement: Both were convicted of furthering the aims of the ANC and sentenced to prison for 18 months. The magistrate said he had taken into account the fact that they had already spent eight months in prison awaiting trial. He said he was shocked by some of the documents. They were "highly radical and militant and clearly designed to incite. "However he did not find that their actions led directly to violence or to the recent riots. (Star 23.3.77).

1.8. JOHANNESBURG MAGISTRATES COURT - SPRINGS CIRCUIT COURT
(12.2.77 - 6.5.77)

Accused: Isaac Mohlolo Seko(27) Detained 7.12.76.

Charge: Participating in terrorist activities, alternatively sabotage, attempted murder, malicious damage to property and being in possession of explosives.

Summary: Mr. Seko, a former laboratory assistant employed by the Anglo American Corporation, first appeared in court on 12 February in connection with the blast at the Carlton Centre in Johannesburg. He was remanded in custody to 28 February and then the hearing was postponed for hearing in the Springs Circuit Court on 2 May. According to State evidence Mr. Seko was seen in the Boulevard Restaurant of the Carlton Centre on 7 December 1976 with two smouldering dynamite sticks in his hand. In the explosion that followed seconds later, his right forearm was blown off and several people in the restaurant were injured. He was also alleged to have been responsible for a bomb blast in the Klipspruit surgery of Dr. Jack Goldberg on 5 November. Damage estimated at R4 500 was caused.

The State claimed that he received instruction in the use of explosives from Mr. Wellington Tshazibane who was found hanged in his cell on the day of his arrest, 10 December.

Police evidence was lead to the effect that powder and dynamite fuses were found at Seko's house an hour after the blast. Material was also found at Tshazibane's house.

In argument the prosecutor said that the State had proved Mr. Seko's intent to endanger the maintenance of law and order. His actions had been directed at the law-abiding people of society. He was therefore guilty of terrorism, he said. Defence counsel submitted that Mr. Seko was not guilty of terrorism. His acts constituted sabotage because they were not directed at the constituted authorities.

Judgement: Mr. Justice R. Hill, sitting with two assessors, found Seko guilty on two counts of terrorism, one of sabotage and one of being in possession of explosives. He was sentenced to seven and twelve years' imprisonment for the terrorism charges, five years' for the sabotage charge and five years' on the explosives charge. All sentences were to run concurrently to constitute an actual sentence of 12 years.

In a statement to the court, Seko stressed that he never intended to kill or injure anybody. He said that he planned to set off a second bomb in another restaurant during the confusion of the first blast. He said that he chose the Carlton Centre as a target because it was a "white institution" and he wanted "to shock the authorities into taking action to respond to the call for reform" which was being made during the Soweto disturbances. He said that what he did was with the highest patriotic motives for the good of "all my people and for the good of white South Africans as well". In sentencing Seko, the judge said he did not believe that he did not foresee that someone would be killed as a result of his actions.

1.9. JOHANNESBURG REGIONAL COURT

(14.4.77 -

Accused: Manasse Shole(28)

Charge: In terms of the Immigration Regulation Act, 1955.

Summary: Mr. Shole, a representative for a liquor firm, was accused of helping four Soweto students to cross the border into Swaziland illegally. The State alleged that on 11 November 1976 he took David Mojapelo(21), a Form 3 student, two 16-year Form 2 students and another student who later left the country, to Barberton where they would illegally cross to Swaziland. Mr. Mojapelo, giving evidence for the State, said he approached Mr. Shole who agreed to take them to the border. In his defence Mr. Shole said he took the students because they threatened to burn his house and car if he did not. The case was postponed to 13 June.

1.10. JOHANNESBURG REGIONAL COURT

(2.11.76 - 22.2.77)

Accused: Kevin Martin(18)

Charge: In terms of the Internal Security Act. He was accused of having performed an act calculated to further the aims of communism by possessing certain books and letters. The authors of the books included Marx, Lenin, Cabral and Mezlyakof. One book was entitled "BOSS: the first five years."

Summary: On 13 January, 1977 the State opened its case and Sgt. J.A. Hayes told the court that Martin left S.A. on 11 April, 1976 at the border post near Mafeking to go to Botswana. He returned on 15 April and his luggage was searched by Sgt. B.S. Mazela who found two sealed envelopes containing letters and six books. Martin was handed over to the Security Police. Mr. C.J. van der Merwe, head of the department of political science at the Rand Afrikaans University, testified about the contents of the books and letters, claiming that they called for revolution and some were aimed to evoke antipathy towards the SA government. The defence did not call any witnesses other than Mr. Martin who gave evidence in his own defence.

Judgement: After defence and State argument Mr. Martin was acquitted on 22 February.

2.1. RANDBURG SPECIAL COURT

(15.11.76 -

Accused: Sibusiso Ndebele(28)	Former librarian at the University of the North
Tintswalo Mashamba(32)	Former lecturer at the University of the North
Happy Joyce Mashamba(27)	Wife of Tintswalo
Percy Tshabalala(41)	School teacher

Charges: In terms of the Unlawful Organizations Act and the Terrorism Act. All were alleged to have furthered the aims of the banned African National Congress, participated in terrorist activities, recruited people for a banned organization and to have been in possession of banned literature. The offences were alleged to have been committed between August 1975 and May 1976.

Summary: Subusiso Victor Ndaba, a former student at the University of Zululand detained in May 1976, testified that he had met Ndebele at the university. The latter had suggested to him that he should leave the country as he could arrange it through ANC contacts. Leslie Gumede, a third year medical student from the University of Natal testified that while in Swaziland he had met ANC people who had discussed strategy with him. Obed Tshukudu, a former student of Mr. Mashamba, said he met ANC people at a party organized by Ndebele in Manzini. He said that he accompanied the Mashambas to

a hospital in the Eastern Transvaal to arrange for parties which could be used as "covers" for ANC escapes.

Sibusiso Gabriel Nkosi, of Madadeni, Newcastle, testified that Ndebele visited him and said he wanted to open an ANC cell in the town. Nkosi said he travelled to Swaziland where he had discussions with Dan Ngobese, Stanley Mabizela and other ANC people. Tsepo Godfrey Maphala, a former Turfloop student, told the court that Mashamba and his wife had asked him to become an ANC member. On 13 December Lemmy Mokgedi, also a former Turfloop student, testified that when he went on a sports tour through Swaziland he met Ndebele who in turn introduced him to ANC people. The case was postponed until February 1976.

On 1 February, two witnesses told the court that Mr. Tshabalala and Mr. Mashamba had tried to recruit them for the ANC. They said they were also told that they would be sent abroad. Mr. Lybon Tiane Mabaso, a high school teacher, initially refused to give evidence for the State. On 3 February he told the court that Mr. and Mrs. Mashamba had only discussed homeland politics with him.

At the close of the State's case the defence applied for the discharge of Mr. Tshabalala on the ground that the allegations against him had not been proved. The application was not granted. The case was postponed to 14 February on which date Mr. Ndebele, giving evidence in his defence, denied introducing three South African students to an ANC recruiting agent in Swaziland. He denied knowledge of the fact that an acquaintance, Mr. Thabo Mbeki, was an ANC recruiting agent in Swaziland.

In giving evidence, Mr. Mashamba denied making trips through the Transvaal to reconnoitre the sites of police and military posts and of possible ANC hideouts and escape routes. He said that the visit to the hospital had been for the purpose of arranging a job for his sister as a nursing aide. He said that a trip to Phalaborwa in May 1976 was to visit a friend and his fiancé. He denied the evidence of Patrick Mthobi who accompanied him, that he had questioned a petrol attendant about military camps and about Frelimo. Mrs. Mashamba told the court that she had not joined the ANC with her husband nor had she assisted him in recruiting four other people into the organization or in distributing propaganda publications for the ANC.

Mr. Tshabalala admitted to having been a "nominal" member of the ANC and having listened to Radio Frelimo broadcasts by the ANC from Zambia. He said that he had been approached by many students and colleagues for advice about bursaries and scholarships. He had told them to go to the British and American embassies to apply. He denied telling people they could study in Russia and do military training there.

In final argument, Mr. Weinstock, for the defence, pointed out that during the case state witnesses had avoided saying things that would jeopardise their being freed and they had waited patiently to be freed by the judge after giving evidence. He referred to witnesses Mr. Taule Mokoena, Mr. Leslie Gumede and another who were medical students at Wentworth. In 1975 they had accompanied a campus football trip to Swaziland and to show that they were not interested in football, but rather in politics, they had completely abandoned the tour and had involved Ndebele in political discussions. He referred to the manner in which Mokoena met other people and started talking politics. Judgement was postponed to 22 March and then again to 14 April. On 13 May Tshabalala was acquitted. The judge said he would give reasons for the acquittal when he delivered final judgement on the other accused on 28 June.

2.2 RANDBURG SPECIAL COURT

(1.2.77 - 13.4.77)

Accused: Stanley Ngobizizwe Nkosi(30)
Petrus Motlhanthe(35)
Joseph Mosoeu(45)

Charges: In terms of the Terrorism Act, alternatively the Unlawful Organizations Act.

Summary: The accused first appeared in court on 1 February and were remanded in custody to 1 March. Between January and April 1976 they were alleged to have taken part in Terrorist activities, and to have had explosives or alternatively taken part in ANC activities and conspired to obtain explosives for sabotage. One count applied to Nkosi and Motlhanthe who were alleged to have undergone training for either sabotage or to endanger the maintenance of law. The three pleaded not guilty to all charges. In a statement allegedly made to police in April 1976, Nkosi said that Siphiwe Nyanda of Dube introduced him to members of ANC, Keith Mokoape and Eddie Dlomo. Together with Nyanda and another man, George, a Soweto cell was formed, Nkosi said in his statement. He said they went to Manzini, Swaziland where they were led blindfolded to a place where for a week a man taught them how to use explosives. Motlhanthe, in a statement allegedly made to the police, said that he, Nyanda and Nkosi belonged to a discussion group specializing in reading books called the "Black Caucus". He said that the trio brought explosives, fuses and detonators from Swaziland.(World 4.3.77).

In giving evidence, Major Grobler of the Security Police, said that following information he obtained from a statement made by Nkosi, he proceeded to a house in Meadowlands where he found Motlhanthe and asked him to produce explosives he was supposed to have. Motlhanthe then told him the explosives were at Mosoeu's house, they then proceeded to house number 1976 Moletsane where Mosoeu handed the police a plastic bag containing the explosives consisting of two slabs of T.N.T., electric detonators and several lengths of safety fuse, which were concealed in cigarette packets and toilet roll wrappings.(World 4.3.77) Mosoeu told the court that during 1975 Motlhanthe brought a suitcase to his house and asked him to keep it for him since he did not have space in his own house. He also brought a plastic bag. He said he was not aware of the contents of the bag. On the night of 24 April the police arrived and asked for "the things belonging to Petrus." He handed them the suitcase which they opened. For the first time he saw that there was dynamite in the bag.

Mr. G. Alexander S.C., appearing for the defence, pointed to inconsistent evidence of two police officers, Major Grobler and Major Visser. Concerning Mr. Mosoeu, He said that they were uncertain whether they had warned him according to the judge's rule. He said in their diverging evidence the policemen had given a picture of a man who was prepared to co-operate with the police, but who, the following day denied everything.

Judgement: Mr. Justice Human found Nkosi and Mothlanthe guilty and sentenced them to five years' imprisonment on each of the three charges. The sentences for undergoing training and bringing explosives into the country were set to run concurrently so that each would serve jail terms of 10 years each. Mosoeu was acquitted.

Before sentence was passed, Nkosi and Mothlanthe said in addresses to the court that they joined the ANC after they felt there could be no change in the political structure in S.A. without armed confrontation. Nkosi, a B. Proc. graduate of Zululand, said that as a lawyer he saw frustration everywhere. "Even the very courts in which this trial is being conducted have entrances marked "whites" and 'Non whites'. I do not believe in violence, but a little of it without bloodshed could convince the whites something more drastic could happen. "This could make them change their ways. "Mothlhanthe said that all he wanted was fair deal for his son and wife. He said his son had been declared a citizen of Lebowa although he had never been there. The stamp in his own reference book said he was only permitted to be in the proclaimed area of Johannesburg while in the employ of the Johannesburg City Council. "This makes it plain I am only here as long as my services are required." They said that the ANC "was a peaceful organization before it was banned. The whites in this country thought that their rights would be denied by a black ruled government. This led to the organization embarking on violence which is a painful decision to take, but its aims were to make the whites aware that majority rule is needed." (World and Rand Daily Mail 14.4.77).

3.1. RANDFONTEIN MAGISTRATES COURT

(4.2.77 -

Accused: Walter Ratsatsi Teacher from Mohlakeng
Lazarus Matshuisa "
Edward Mogajane "
Jeremiah Tlharipe "
Caliph Sejake "
Michael Keitsiwa "
Dorothy Sejoe "
Margaret Manana "
Gift Molefi(18) Student from Mohlakeng
Jeremiah Thani(19) "
Paul Kgabele(19) "
Jacob Seleke(20) "
Six youths of 17 years Students from Mohlakeng

Charge: Sabotage, alternatively public violence.

Summary: The accused first appeared in court on 4 February. They had all been detained since 3 November 1976. They were remanded, the teachers being released on their own recognizances and the students on bail of R50 each. The trial was again remanded on 17 February. Another eleven students appeared with the accused on this occasion. On 10 March all charges against the teachers were withdrawn. The case against the students was postponed to 23 May.

3.2. SPRINGS SPECIAL COURT

Accused: Samuel Ntombela Soweto Student
Youth of 16 years "

Charge: Sabotage

Summary: The two appeared on 10 November 1976, before Mr. Justice Theron. A Johannesburg magistrate gave evidence and said that the two had said in a statement to him that they had used papers to burn a second class passenger coach near Inhlanzane station during August. (World 11.11.76.) On 25 November the youth of 16 years was acquitted. The judge said it was clear that the statements had not been made by him. Samuel Ntombela was reported to have skipped bail of R500. (World 26.11.76.)

3.3. SPRINGS SPECIAL COURT

(7.2.77- 21.2.77)
Accused: John Matonkonyane (18)
Kenneth Dhlamini (18)

Charge: Murder

Summary: The two appeared on 7 February charged with the murder of Dr. Leonard Edelstein who was killed on 16 June 1976 in Soweto at the start of the disturbances. Prior to their appearance, similar charges against three others, Mr. Ronnie Mosehle, Mr. Woodward Moroeng and Mr. Isaac Moeletsi were withdrawn on 28 January. They had been held in detention for 196 days.

Both accused pleaded not guilty before Mr. Justice Eloff. State evidence was lead, regarding events leading to Dr. Edelstein's death as well as the manner of his death. Capt. C.A. Maree of the Brixton murder and robbery squad read a statement allegedly made to him by Dhlamini in which he admitted playing a part in the murder. Det.-Sgt. F.A. Dempsey, investigating officer, gave state evidence.

Mr. Bizos, for the accused, alleged that they had been assaulted and tortured to make a confession. He said the two youths were taken to room 28 at Meadowlands police station and assaulted. He said that Dhlamini was made to stand on his toes and lean against the wall with his hands up. He was slapped on the face and punched in the stomach whenever he relaxed. Dempsey denied these allegations. Other allegations that Dhlamini was kicked in the back by a policeman called Mike after he said he knew nothing of Dr. Edelstein's death or of "Black Power", were also denied. (World 9.2.77). Dempsey denied that Matonkonyane had been made to sit on his haunches with his arms raised for long periods, nor was it true that he had been threatened with a knife, hit with a bottle and punched. (Star 9.2.77).

Mr. Bizos claimed that Mr. Dhlamini had been receiving treatment at the Jabavu Clinic in Soweto at the time of Edelstein's murder. He handed to the court a treatment card issued by the clinic and made out in Dhlamini's name. Mr. Dhlamini told the court that the night before going to the clinic he had been unable to use his right arm at all. (Rand Daily Mail 9.2.77.) Cross questioning Sgt. Nevhutalu, Dempsey's assistant, Mr. Bizos suggested that after assaulting Mr. Dhlamini, threatening him with a knife and promising that he would be given bail if he co-operated with the police, the sergeant then wrote out Mr. Dhlamini's statement without referring to him and asked him to sign without reading it to him. He slapped Mr. Dhlamini, who then signed the statement. On the day before Mr. Dhlamini signed the alleged confession before Capt. Maree, Sgt. Nevhutalu had made him rabbit jump around his cell, slapped him and told him that if he co-operated with the police the next day he would get free bail. Sgt. Nevhutalu denied all Mr. Bizo's suggestions. (Rand Daily Mail 11.2.77).

On 11 February in evidence, Mr. Dhlamini stated that he had been repeatedly assaulted and warned to "co-operate". He said that when he was taken to Capt. Maree to make a statement he told him that he knew nothing. Capt. Maree shouted at him to tell the truth and hide nothing. "There was a statement next to him. He was copying from this statement. After he had finished he handed me the paper and asked me to sign it," Mr. Dhlamini said (Star 11.2.77). He denied the contents of the statement in court and described the assaults allegedly made against him. (Rand Daily Mail 12.2.77).

On 14 February a statement by Mr. Matonkonyane, admitting that he had participated in the killing, was read to the court. In evidence before the court, he denied that he had taken part and claimed that he had pleaded with a group of Black youths not to harm Dr. Edelstein. He said that Sgt. Dempsey made him stand on his toes with his hands above his head and his knees bent, against a wall. Dempsey punched and slapped him and Sgt. Nevhutalu hit him on the head with a bottle, he alleged. Sgt. Dempsey then took a panga and pushed it into his stomach. He returned to his position against the wall. Dempsey demanded that he tell the truth. When he replied that he already had, two other white detectives began punching him. He screamed and was then taken next door and handcuffed to the leg of a table. Mr. Dhlamini, his co-accused, was then taken into the room and came out later, crying and with his nose bleeding. (Rand Daily Mail 15.2.77.) He later said that his statement had been taken from part of a statement made by Hoffman Banda, another suspect. Capt. Maree denied this allegation. (World 16.2.77.) Mr. Ronnie Mosehle, who had been a suspect in the

case, gave evidence for the defence, and told the court that after his arrest he was questioned at Meadowlands police station by Dempsey and Nevhutalu. He was made to stand against a wall, with his arms in the air and his knees bent. He was also made to hold an iron bar above his head. When he complained that he was tired, Sgt. Dempsey swore at him. Sgt. Nevhutalu hit him in the face with a bottle and punched him on the face and body. His mouth and nose began to bleed. Another white policeman pushed a gun into his mouth and said, "Kaffir if you don't tell the truth this gun will blow your head off." Sgt. Dempsey then hit him on the chest with a panga, he said. He denied that he knew anything of Dr. Edelstein's death. (Rand Daily Mail 17.2.77.)

In final argument before the court, Mr. Bizos said it was "about time police officers learn to comply with the judges' rules when arresting and taking statements from suspects." He claimed that police officers should be deterred from "the fashion" of taking suspects to their colleagues to make statements and should revert to using magistrates to take statements and confessions. He also claimed that the evidence of the policemen involved did "not inspire the sort of confidence needed to enable the judge to reject the evidence of the two accused." He pointed out that both accused had changed their minds about making a confession at the same time after they had initially refused. (Rand Daily Mail 18.2.77.)

In reply, Mr. H.S. Slabbert, for the State, said that allegations that police assaulted the two accused should not cloud the issues. He described the accused's version of their arrests and interrogation as "fanciful and untrue." He submitted that the two confessions had been made freely and voluntarily. (Rand Daily Mail 19.2.77.)

Judgement

Judgement was delivered on 21 February. Both accused were acquitted. Mr. Justice Eloff said that their statements, which formed the only evidence connecting them with the murder, had not been proved to have been made freely. The judge said he could not be absolutely sure that something had not happened on the Sunday following their arrest to prompt the confessions. He said that Sgt. Nevhutalu was an unreliable witness. He also had found the accused and many of the defence witnesses unreliable. The accused had not been found not guilty but the case against them had not been proved, he said. (Rand Daily Mail 22.2.77.)

3.4. SPRINGS SPECIAL COURT

Accused: Ewert Zakwe (18)

Charge: Sabotage

Summary: The accused first appeared in November 1976 before Mr. Justice Theron. A police constable told the court that he was on guard between Inhlazane and Naledi station. He said that he saw Zakwe and another youth cutting the signal cables. He ordered them to stop and they ran away. He opened fire and one of them was hit.

In his defence, Mr. Zakwe said that he and a friend, Mr. Charles Boy Mazomba, were going to Jabulani. He said that a group of men had blocked the bridge near the station and were assaulting passengers from work. He and his friend jumped over the fence with the intention of crossing the railway line. As they were walking alongside.

the rail a constable approached them and ordered them to stop and kneel down. He demanded to know what they were doing on the railway line. Zakwe alleged that they explained their purpose and that the constable pulled out a revolver and fired. Mazomba was hit. Under cross examination the youth said that the policeman could not have been more than four paces from him and his friend.

Judgement: The judge said the State evidence was strong enough to convict the accused. There was evidence that the dead youth was found lying next to the damaged cable. He was found guilty of cutting the cable and putting stones on the rail line and was sentenced to imprisonment for ten years.

3.5. SPRINGS SPECIAL COURT

(17.11.76 - 26.11.76)

Accused: Elliot Radebe(20)
Karel Manaka(19)
Henry Conjwa(20)
Charles Ngwenya(19)
Sophania Shikishi(20) All high school students
Henry Njara(18)
Ismail Mahlangu(18)
Isaac Moleko(19)
Abel Molebatsi(19).
4 Youths of between 14 and 17 years.

Charge: Sabotage, alternatively arson, robbery with aggravating circumstances and theft.

Summary: The accused first appeared before Mr. Justice Theron on 18 November 1976. They were alleged to have incited others at Katlehong Secondary School to form a demonstration march to the local police station and demand the release of detained students and that they incited people to take revenge on the police by destroying municipal buildings and that they also burnt a building of the East Rand Administration Board in Salatse and Tsolo sections. (World and Rand Daily Mail 18.11.76.)

Evidence was lead regarding events on 12 August when the offences were alleged to have been committed. All the students at Katlehong Secondary School marched to the nearby police station to demand that pupils in detention should be released. Pupils from other schools joined them on the way. On their arrival at the police station two policemen spoke to Radebe, head prefect of the school, and Manaka. A third policeman appeared and threw teargas at the pupils who dispersed. State witnesses told the court that Radebe had then suggested that they should go and burn the offices belonging to the Board. In their evidence the students admitted having marched to the police station but denied having been involved in the burning of the building and having stolen petrol and paraffin which was said to have been used in setting the fire. In argument Mr. L. Surrurier, for the accused, claimed that it did not constitute an offence to request police to release detainees. (Rand Daily Mail 23.11.76.)

Judgement: Elliot Radebe - 6 years imprisonment
Karel Manaka - 5 years imprisonment
Henry Conjwa - "
Youth of 17 years- "
The nine other accused were acquitted on the grounds that there was no conclusive evidence against them.
Defence counsel gave notice of appeal.

3.6. SPRINGS SPECIAL COURT

(1.11.76 - 8.11.76)

Accused: Solomon Mathole(29)) Clerks for East Rand
John Shidomo(26)) Bantu Administration Board
Ardinot Sipeta(30)
Simon Fana(21) - Head prefect, Mabuya H.S.
Walter Ntsele(19) - Student Mabuya H.S.
Sidwell Mnguni(22) "
Sidwell Phathekile(19) "

Charge: Sabotage and theft.

Summary: On 1 November 1976 the accused appeared before Mr. Justice Theron. Students gave evidence for the State, regarding events at Mabuya High School on June 18 and 21. Some of the accused were alleged to have incited the students to march to the Central Bottle Store and stone it. (Rand Daily Mail 2.11.76.) Giving evidence on 2 November, Simon Fana told the court that some teachers were so badly qualified to teach subjects in Afrikaans, that they spoke in a "Tsotsi" Afrikaans which pupils could not understand. This resulted in the student protest, he said. Mr. M. Stegmann, for the accused students, asked that they be found guilty of public violence rather than sabotage, as the offences on which evidence had been led were not of the degree of seriousness to be called sabotage. (Rand Daily Mail 4.11.76.)

Judgement: Found guilty of sabotage and not guilty of theft.
(8.11.76) Simon Fana - Five years imprisonment
Sidwell Pathekile - "
Sidwell Mnguni - "
John Shidomo - "
Ardinot Sipeta - "
Walter Ntsele - "
Solomon Mathole - Acquitted.

Delivering judgement, Mr. Justice Theron said: "The minimum penalty provided for by parliament is five years. Disrupting the law and order is regarded as a serious crime." (Rand Daily Mail 9.11.76.)

3.7. SPRINGS SPECIAL COURT

(24.11.76 - 25.11.76)

Accused: Arthur Mkhwanazi(38) Both Clerks at Kalafong Hospital.
Patrick Molala(39) Molala is also a player for Pretoria Callies soccer team.

Charge: Sabotage, alternatively conspiring to commit arson.

Summary: The State alleged that they made two petrol bombs at Atteridgeville on 24 October 1976. Both pleaded not guilty and said that police in Pretoria had given them electric shocks to force them to make statements incriminating themselves. Mr. Mkhwanazi denied some parts of a confession he was alleged to have made before a magistrate. He said part of the confession was dictated to him by a Black detective Sergeant, called Selape. Mr. Molala said he was kicked after being given electric shocks. One petrol bomb was exhibited in court.

Judgement: On 25 November Mr. Justice Theron found them guilty of Sabotage. Each were committed to imprisonment for seven years.

3.8. SPRINGS SPECIAL COURT

(25.11.76)

Accused: Paulina Lekula(19) - From Soweto
Ronald Mkhize(22) - From Soweto.

Charge: Sabotage

Summary: They were alleged to have burnt a ticket office at Chiawelo Railway Station on 19 September 1976. (Rand Daily Mail 26.11.76).

Judgement: Mr. Justice Theron said that their action disrupted the railways and inconvenienced commuters. They were each convicted and sentenced to five years' imprisonment.

3.9. SPRINGS SPECIAL COURT

23.2.77 - 4.3.77)

Accused: Solomon Rakosa(20)
John Msinga(19)
Ephraim Mongala(18)
Michael Mbele(19) All students from Duduza township.
Albert Mazibuko(18)
Felix Mpeka(19)
Charles Mazibuko(18)
Elias Sitepe(18)
Rossou Ncongo(17)
2 Youths of 17 years.

Charge: Sabotage

Summary: The accused were alleged to have stoned and burnt buses and Administration buildings in Duduza between 18 and 21 June 1976. Giving evidence on 23 February, Solomon Rakosa and John Msinga alleged that statements they made before a magistrate had been dictated by police. Rakosa said that when he was arrested the police read to him from a book and told him to repeat what he had heard before a magistrate. The statement said that children in Duduza were unhappy over the Afrikaans language issue and high examination fees. "On June 21 we had to write Afrikaans and talked about it. We left the school shouting "Black Power" and went to another school where the children left classes when they saw us...." The statement said the group went to a nearby beerhall and the nearby administration offices, which were set alight. Tsotsis joined the group. Together they stoned cars and set fire to an Administration Board van. A bus was stoned, driven around and then set alight. Police who arrived at the scene were stoned.

John Msinga alleged that he was assaulted by the police. One of them, an African, punched him and trampled over him until stopped by a white. He was read to from a book and told to repeat it in his statement.

Judgement: Mr. Justice Eloff acquitted Charles Mazibuko, Elias Sitepe and the two youths of 17 years. The rest were convicted and sentenced to 5 years' imprisonment each. He said in his judgement that he had no option but to impose the minimum sentence required by law, although he found it difficult to sentence young scholars. He said that the stoning of property was not a spontaneous act of resentment against the educational system but the result of prior scheming.

3.10. SPRINGS SPECIAL COURT

(15.3.77 - 18.3.77)

Accused: Six students, all under the age of 18.

Charge: Sabotage

Summary: The State alleged that on 28 July 1976 the students influenced schoolmates into burning down schools and had set ablaze a Kagiso high school. Six 20-litre paraffin containers stolen from a store near the school were exhibited in court. One of the accused alleged in a statement read before the court that he was forced by four others to steal the paraffin and use it to burn the school. A State witness, Mr. William Ramokadi, alleged that an investigating officer, Sgt. Zibi, had made him lie when he took down a statement. Mr. Ramokadi said the sergeant told him to say that he saw the accused jump over the store wall to steal paraffin to use in burning down the school. (World 16.3.77).

Mr. Isaac Modise, giving evidence for the State, said he was with the six youths when they plotted to burn down schools in the township. He said that two of the accused suggested that they steal paraffin from the shop to use it in setting the school alight. "The following day I met accused number one at our school and he told me that they had burnt the high school. While doing so, he said, they had been helped by four men from Soweto," said Mr. Modise.

Judgement: Two of the six youths were convicted and sentenced to five years' imprisonment each. Passing sentence, Mr. Justice de Villiers said "I am aware that instigators from Soweto were at work, but what you did was a dreadful thing. It amounts to a man who cuts off his own arm.... It is obvious from Mr. Modise's evidence that you were among the arsonists." The other were acquitted.

4.1. VANDERBIJLPARK MAGISTRATES COURT

(14.4.77 -

Accused: John Mokoena(23) Both from Boipatong; reported to
Isaac Teboho Silense(22) be members of the B.P.C. and SASO.

Charge: Sabotage

Summary: The State alleged that on 21 July 1976 in Boipatong township they conspired to burn the Boipatong post office. The prosecutor told the court, after consultation with Capt. J.A. Steyn of the Security Police, the investigating officer, that the accused were to appear in a summary trial in Pretoria but the date had not been set. They were remanded in custody to 21 April for further remand.

4.2. PARYS CIRCUIT COURT

(10.2.77)

Accused: Mpule Moses Mocososa (19)
17 year-old youth.

Charge: Sabotage

Summary: A Constable of the security police, giving evidence, said a number of youths gave a Black power salute and agreed to burn down a school. He fired 3 shots and later arrested Mocososa and the youth.

Judgement: Both were found guilty of sabotage and sentenced to five years' imprisonment.

5.1. PRETORIA SUPREME COURT

(June 1975 - 31.1.77)

Accused: Mr. Sadeque Variava (27)) Members of the People's
Mrs. Numsisi Khuzwayo) Experimental Theatre (PET.)

Charges: In terms of Terrorism Act.

Summary: Mr. Variava had been charged in June 1975. Released on bail of R5 000 in September 1975 - after 227 days in detention. Mrs. Khuzwayo was charged and released on bail of R2 000 in December 1975 after 2 weeks' detention. Neither had been asked to plead to charges. The charges related to a PET newsletter of 1973 containing 2 poems and an editorial and to a PET production of a play "Shezi"/"Shanti" in 1973 and 1974.

They appeared on 31.1.77 in the Pretoria Supreme Court.
Charges were withdrawn.

(Mr. Variava had charges withdrawn after serving 227 days in detention and 16 months on bail awaiting trial. Bail conditions restricted him to Pretoria until 15.6.76 - although his home was in Johannesburg. After 15.6.76 he was allowed to live in Johannesburg. Reported to police weekly.)

(Mrs. Khuzwayo spent 2 weeks in detention and 14 months on bail awaiting trial.)

5.2. PRETORIA SUPREME COURT

(31.1.77 - 8.2.77)

Accused: Mr. Sandy Lebeso (20)) Students from Vlakfontein
Mr. Joseph Simelane (18)) Technical High School, Mamelodi.
Mr. Morris Mashinini (18)

Charges: Sabotage, alternatively, arson and malicious damage to property.

State Witnesses: Eric Mampane - (accused - turned state witness).

Summary: Appearing in court on 31 January all three pleaded not guilty to charges arising out of a fire at Vlakfontein Technical High School, Mamelodi, East of Pretoria, on November 14, 1976.

(3.2.77) In a statement, read by Magistrate P.W. Pretorius, Mr. Morris Mashinini said that on November 12 he and 4 other pupils of Mamelodi Technical School planned to burn it down during a lunch break. That night he had written on a school black-board,

"Yes; Mr. Spiés (school's headmaster) you do not know your days. You and Mr. Van Rensburg have killed our brothers, fathers, mothers and sisters. I am warning you not to come to Mamelodi again. There is a bullet waiting for you. Away with your Afrikaans." The next day, a pupil known as Joseph met five others. They went to the door of the school's white staff room. Joseph Mbokane chopped the door down with an axe. "The other Joseph poured petrol on the floor. They asked for matches and I threw some to them. It started to burn and we all fled."

The judge accepted Mashinini's evidence, but said it could not be used in respect of his two fellow accused, Mr. Lebese and Mr. Simelane. He rejected allegations by Mashinini that he had been assaulted and threatened with death. Mashinini said he was unduly influenced by the Security police, on November 23 to make a statement to a magistrate, admitting he had set the school on fire.

Eric Mampane, a Vlakfontein student, said that he, Joseph Mbokane and the 3 accused decided to burn down their school. Mashinini was the one who came up with the idea. Mampane and Mbokane were not in favour and then agreed. On Sunday morning he was collected at a soccer field near school. Lebese carried a handbag which contained petrol. They went to the school. Mashinini kept watch at the main gate, while Mbokane was watching an opening in the fence. Simelane forced the door of the white staff room open with an axe. They all shouted "power" with clenched fists. Lebese splashed the petrol on the floor walls and furniture, and set it alight. They all ran. He said Mashinini was a politically minded student. Several others talked politics openly at school. On 7 February the three students gave alibis.

Lebese said he went fishing with another youth. The other youth testified that they caught 14 fish. Lebese said he had caught 8. Youth said they saw smoke in the sky. Lebese said he had not seen any.

Simelane said he was helping his brothers to plaster their kitchen, and had not gone out that Sunday. This was confirmed, by his brother, Andrew who said that his brother could not have slipped out unnoticed.

Mashinini said he was at his grandmother's until 12 O'clock. After eating he caught a train to Atteridgeville. He had not burnt the school and had not planned the fire 2 days previously.

Judgement (8.2.77)

All three were found guilty.

Morris Mashinini	6	years	imprisonment
Sandy Lebese	7	"	"
Joseph Simelane	5	"	"

The judge said he accepted the evidence of two 17 year olds who turned state witnesses. He said the 3 accused were "three big liars".

5.4. PRETORIA SUPREME COURT

(1.2.77 -

Accused: Colins Mushi
Josua Mamerogoni
Seth Mdalane
Isiah Sephiri
Harold Legodi
Philemon Mamabolo
Harris Chueu
Joseph Moteleka
Moses Bapela
Simon Magongwa

Charge: Reported to be facing security charges

Summary: Reported on 1.2.77 to be due to appear. No further information (World 1.2.77).

5.5. PRETORIA SUPREME COURT

(10.2.77 - 19.2.77)

Accused: (Originally 23 Middelburg students accused)
Johannes Mnisi: charges withdrawn 10.2.77.
Bushu Hlatiswayo: amongst those released.

Charges: Sabotage, alternatively public violence, arson and malicious damage to property.

Remaining accused: 16.2.77

Daniel Khubo
Lawrence Mahlangu
Nokhu Mnisi
16 year-old youth.) Sozama High School students.

State Witnesses:

Mr. Africa Mampane
Sergeant Elias Maduna
Sergeant Jerry Makhubu
15 year old witness.

Summary: On 10 February 19 people, mostly students, appeared before Mr. Justice Irving Steyn in Pretoria Supreme Court.
State Prosecutor: Mr. M.I. Ackerman.

Charges against Mr. J. Mnisi 30, a teacher of Elusindweni Higher Primary School were withdrawn. Four of the charged failed to appear.

During a march through Middleburg Black township July 20, six were alleged to have stoned the town's Bantu Administration Board offices, and set a beer depot ablaze. 17 were alleged to have stoned the town's Bantu Administration Board vehicles a municipal clinic, and an ambulance. Five were alleged to have stoned a police truck. All pleaded not guilty.

On 10 February the prosecution's first witness, Mr. Africa Mampane, warned as an accomplice, gave evidence. A pupil at Sazama High School, he said that rioting began when schools opened on 20 July. He went home. While at home he saw pupils march singing down the street. He joined them. A bus was stoned. Passengers and drivers were allowed to alight. Pupils then stoned offices. Mr. Bushi Hlatswayo, one of the accused, set fire to the bus that was stoned previously.

On 11 February Sergeant Elias Maduna of Bantu Affairs Administration Board for the Highveld gave evidence for the prosecution. He and 3 other policemen ran towards the city when the board's charge office was attacked by about 100 students. The students dispersed when police arrived later and fired warning shots.

Police Sergeant Jerry Makhubu told the court that students were shouting "power" and raised clenched fists when they attacked the charge office.

A 15 year old student was dismissed as a witness after she told the court that the statement she made to the Security Police was given under duress. Two state witnesses said they saw one of the accused set a bus alight.

Of the 23 people who appeared at the start, 14 were freed on 15 February by the judge and others had charges withdrawn.

The following were the remaining accused:

Daniel Khubo	}	Sozama High School, Middelburg.
Lawrence Mahlangu		
Nokhu Mnisi		
16 year old youth		

(All still pleaded not guilty to charges.)

16 year old gave evidence in his defence:

He was looking for work at time when he allegedly burnt the bus. He was with 2 others when he went to a steel factory for work. Later went to town to several places seeking employment.

Three state witnesses alleged that the youth set fire to the bus after it was stoned by other students.

Khubo, a second youth, denied allegations that he had been among the group said to have stoned the charge office.

The prosecutor asked that Khubo be convicted on the main charge of sabotage. He asked the court to reject the youth's defence that he was near the charge office, but didn't take part in attack. He conceded that there was no evidence to convict Mahlangu. He asked that the third youth be found guilty of public violence.

Mr. S. Strydom (Defence Counsel) argued that Mr. Mampane's evidence should be rejected. It was fraught with "blatant deviations", he said. The state had not specified the third youth's involvement in stoning the charge office. The charge sheet had stated that the youth stoned a bus and beer depot.

Judgement: 18.2.77

Mr. Justice Irving Steyn found the youth (17 year old) not guilty of the Sabotage charge, but guilty of malicious damage to property. He was given five cuts. He said sabotage was a serious crime and the minimum sentence was 5 years'. Mr. Lawrence Mahlangu 20, and two others were found not guilty on the sabotage and alternative charges. The judge said that the case presented difficulties. Six or seven witnesses pretended not to know the accused. There was no doubt that the accused, who were on bail, interfered with witnesses. The state had tried hard and it was with reluctance that he found the youth not guilty on the main charge.

5.6. PRETORIA SUPREME COURT

(1.3.77)

Accused: Molefe Isaac Mashigo(24) (Detained 9.11.76)

Charge: Sabotage, alternatively racial incitement.

Summary: Charges related to a document found in his possession on November 8, 1976, entitled "Speaking my mind". The document said "What the Boers should know is that they are facing the last generation willing to negotiate. The young generation know the only language the Boers can understand, is by barrel of a gun and nothing else can make the Boers accept the trugh."

Defence counsel, Mr. B. Ancer, said the wording of the charge sheet did not contain words constituting an offence that could be deemed sabotage.

Mr. F. Wallis, security officer at a Chrysler factory, found a document containing the words in Mashigo's desk. Wallis made photostat copies. He contacted the security police. The following week he saw Mashigo making photostat copies. Mr. Justice van der Walt said Mashigo must be discharged on the alternative charge - the state having failed to prove incitement towards racial hostility. The document didn't reach outside people. It also could not be proved that the document was dangerous and fostered hostilities between black and white.

Judgement: He was acquitted of both charges.

5.7. PRETORIA SUPREME COURT

(2.3.77 -

Accused: Raymond Moroane(19)
Joubert Hlabyago(28)
Isaac Mpho(18)
Nephtali Sathekge(18)
Benjamin Dhlamini(19)
Arthur Tshoke(18)
Khomotso Mokoko(18)
Reginald Maputla(20)
Minah Motswai(18)
Abel Maleka(23)
8 youths of 17 years

Charges: Sabotage, alternatively public violence.

State Witnesses:

Lieut. Maleka, Commander of Atteridgeville police station
Mr. Godfrey Matshidiso Papo, - Putco bus driver.
Mr. Wilson Sehlangu
Constable C.P. De Villiers
Constable Jan Theron
Mr. Daniel Malapane, Bantu Administration Board employee
Mr. Emmanuel Matsenda(19) a student from Hofmeyer High School,
(warned as an accomplice).
Lieut. B.J. Uitenboorgadt.
Mark Nkwana
Buti Makwakwa (charges withdrawn)
Mr. Wycliffe Sehlaiko(20) (Warned as accomplice still in custody,
detained February 27.1977).

Summary: At the request of defence counsel, Mr. David Soggot, Mr. Justice van der Walt ordered the state to provide further particulars. This would enlighten the accused of the charges against them, according to the judge. The judge ordered that the "other acts" allegedly committed by the accused be specified. Further particulars of "the common purpose" to commit acts of sabotage should be specified. Charges were that the students and teachers committed the acts after the funeral of Atteridgeville student, Miss Irene Phalatsi, a student of the Dr. W.F. Nkomo Secondary School. The accused handed out petrol bombs to other persons at the funeral, encouraged and incited others to make Black Power salutes, displayed placards with inciting slogans, attacked with petrol bombs and stones the Atteridgeville Police Station offices of the Bantu Affairs Administration Board for the Central Transvaal, a Putco bus and a truck and planned to burn the houses of two policemen.

Judge issued warrants for the arrest of:

Mr. Stanley Mahlangu
Mr. Humphrey Etsane
Mr. Bushy Ramasodi

and further ordered that bail conditions of the three be withdrawn.

On 3 March, Lieutenant Maleka said that 300 students marched towards the police station on September 11, 1976 singing "Nkosi Sikelele Afrika". About 10 rushed into the building, others threw stones, breaking windows. After 4 warning shots the students ran away. Afterwards petrol bombs were found in the building.

Mr. Godfrey Matshidiso Papo, a Putco bus driver, said he heard shouts of "Black Power" while in a cafe. He ran out and found the bus on fire.

Mr. Wilson Sehlangu said on his way to work he saw students attack a bottle store. Later they broke their way into the Administration board premises. Attacked the offices and vehicles.

Constable C.P. de Villiers said that when he arrived at the offices he saw a man pouring flammable liquid on furniture. When the man ran out, he was joined by Miss Motsweni, one of the accused. The man was shot, Miss Motsweni arrested.

Constable Jan Theron saw the 17 year old youth run out of the building with petrol bombs and chased him.

On 7 March Mr. Daniel Malapané said he saw Mr. Abel Maleka give students petrol. He reported the incident and gave the police Maleka's (a taxi-driver's) description and car registration. Mr Malapané denied he falsely reported Mr. Maleka because Mr. Maleka was in love with his girlfriend.

Mr. Emmanuel Matsemela (warned as an accomplice) said that there was a meeting at the Hofmeyer High School on September 11. One named Desmond told of the funeral. Students then painted slogans. Each student was given a petrol bomb to be used against anything under Government control including buses, police stations and Bantu Board premises.

Mr. Nephtalie Sathekge (accused) allegedly instructed students how to use petrol bombs. After the funeral the students marched to the police station singing "Nkosi Sikelele".

On 10 March Lieutenant B.J. Uitenboorgadt stated in his evidence that the Bantu Affairs Administration Board had been damaged by fire and stones. Three vehicles of the administration were burnt. One was a complete write-off. The petrol pump on the premises was uprooted. A number of window panes at the Atteridgeville police station and two panes at the local magistrate's court were damaged. He said petrol bombs had been found on the premises of the police station and the Administration Board. He visited the home of Mr. Stanley Mahlangu (one of the accused) who estreated bail on September 20. Mr. Mahlangu showed him five petrol bombs in the backyard. They were hidden in a disused coalstove.

Cross examined by Mr. David Soggot, Lieut. B.J. Uitenboorgadt said some of the students were held at Sunnyside police station. Thirteen students said they wanted to air their grievances to the Cillie Commission. They compiled a memorandum. He presented the students' memorandum to the commission. He denied he represented himself to the students as a member of the commission in order to get confessions. (Mr. Raymond Moroane however, told the commission that the students were tricked and assaulted by Lieutenant Uitenboorgadt to make statements. Lieutenant Uitenboorgadt had said he was a member of the commission and had promised them their release.)

Lieutenant Uitenboorgadt (cross examined by Mr. Soggot) denied he told the students detained at Sunnyside Police Station that he was aware of a need for change in South Africa, and that whites treated blacks badly. He denied that this was why the students compiled a memorandum. He denied that students had signed the memorandum after he told them Mr. Justice Cillie wanted the signatures.

Mr. Soggot suggested a "psychological metamorphosis" in the students. They allegedly attacked the police station and the next week gave voluntary statements to the police. Lieutenant Uitenboorgadt had falsely told the students he was a member of the commission and would present the grievances if they made confessions.

On 16 March the State decided not to lead further evidence about the admissability of confessions made by the accused.

Mr. Mark Nkwana(22) testified that he was invited by Raymond Moroane and Mr. Nephtalie Sathekge to a meeting. A group of 25 to 30 students then left for Mbolekwa soccer stadium. Mr. Sathekge and Mr. Stanley Mahlangu brought petrol. They showed students how to make petrol bombs.

On 22 March Mr. Buti Makwakwa (charges withdrawn) said that at Mbolekwa soccer stadium Mr. Nephtalie Sathekge(accused) and Mr. Marks Nkwana(state witness) said only the houses of the policemen involved in the shooting of student, Miss Irene Phalatse, must be attacked. Mr. Makwakwa said he "crushed" the suggestion. He told the students he was a policeman's son. After the meeting he told no-one of the proposals.

Mr. Wycliffe Sehlako(20) (warned as an accomplice and still in custody), said that at a meeting on September 9 two of the accused spoke about petrol bombs. About 30 bombs were distributed among the students. After the funeral students stoned a Putco bus and attacked the board's offices. He later agreed with five accused and 3 others to burn the houses of policemen.

Mr. Sehlako said he did not go with the students to the house of Themba (a policeman) because he was drunk.

Mr. Sehlako, under cross examination by Mr. Soggot, said that he agreed to burn the houses of policemen in Atteridgeville because he had an "obsessive hatred" for the police. "During the riots when the police saw us in the streets they beat us up and chased us. Because of that I hated them", he said. He no longer hated the police. While he was locked up he was converted to liking them. Continuing his evidence Mr. Sehlako said that Lieutenant Uitenboorgadt read to him a statement made by one of the accused, Mr. Sathekge, and told him and another student to make similar statements. He protested that some of the facts in the statement were incorrect but Lieutenant Uitenboorgadt forced him to make one.

Mr. Desmond Kganyago(warned as an accomplice) gave State evidence regarding the students' actions. He said money had been collected to make petrol bombs. Before Miss Phalatsi's funeral the bombs and placards were distributed to students at Hofmeyr High School. He said he was standing in front of his house when he saw the students attack the administration offices with petrol bombs. Later, Mr. Kganyago testified that Lieutenant Uitenboorgadt threatened to beat him up if he did not copy the statement by Sathekge. His evidence was discredited as it differed from his statement to the police. (Rand Daily Mail 8.4.77).

On 6 April, at the close of the State's case, defence counsel applied for the discharge of 12 of the accused. The State did not oppose the discharge of Mr. Abel Maleka(taxi driver), Mr. Arthur Tshoke, Mr. Isaac Mpho and the four youths of 17 years. The judge discharged them together with Benjamin Dlamini but refused to discharge Joubert Hlabyago(teacher), Reginald Maputla, Khomotso Mokoka and a youth of 17 years.

On 27 April Mr. Winston Malatji (18), a matric student, appeared as a defence witness and said that students formed a guard of honour at the funeral and used black power salutes. One of the accused students of 17 years said that the police made him touch a broken petrol-bomb at the police station after his arrest. According to police evidence, the broken bomb was found on BAAB property and the youth's fingerprints were on it.

Another accused of 17 years denied that he had broken open a gate and door of the Central Transvaal Administration Board in September and alleged that he had been assaulted by the police. (Rand Daily Mail 30.4.77).

Giving defence evidence, Mr. Hans Bali, a teacher at Hofmeyer High School said that it was inconceivable that about 30 students could have distributed petrol bombs and placards in a classroom at the school on Saturday 11 September, when he was supervising study periods, without having been seen by a teacher.

On 4 May Mr. Hlabyago was acquitted. The judge said that he could not accept the evidence by Constable Deyzel who said he saw Mr. Hlabyago "jump" a seven to eight foot security fence when he ran away from the police at the Administration Board offices.

A fingerprint consultant, giving defence evidence, testified that the fingerprints alleged to have been found on a petrol bomb (mentioned previously), came onto the bomb after it was exploded.

5.8. PRETORIA SUPREME COURT

Applicants:	Sathasivan Cooper (25)	6 Years' imprisonment
	Justice Myeza (25)	"
	Maitsho Mokoape	"
	Nkwenkwe Nkomo (23)	"
	Mosiua Lekota	"
	Pandelani Nefolovhadwe (29)	"
	Gilbert Sedibe (25)	5 Years' imprisonment
	Absolom Cindi (26)	"
	Strinivasa Moodley (29)	"

The applicants were convicted in terms of the Terrorism Act on 15 December 1976 and sentenced to terms of imprisonment as listed above. (See 1976 Survey of Race Relations pp. 130-132 for an account of the trials' proceedings.)

On 28 March defence lawyers brought an application before the Supreme Court to file an entry claiming irregularities in the trial and for leave to appeal against the convictions. Mr. Soggot for the defence submitted that certain proceedings of the trial were irregular. The judge had ruled that replies given by a police witness to defence questions about assaults and pressures brought to bear on the nine during their detention related to irrelevant matter. He had refused to order the State to supply defence lawyers with certain particulars of the indictment and had disallowed a number of defence questions put to a State witness, Mr. Harry Singh.

Applying for leave to appeal, Mr. Soggot told the court that it was possible that the judge had erred in his finding that there had been no direct evidence of the conspirators' intentions. He said that Mr. Singh had not said in evidence that the BPC had intended by their actions to create racial hostility or to endanger the maintenance of law and order. Mr. Soggot pointed out that the official policy documents of the BPC (Black People's Convention) contradicted any inference that they planned violence.

Another member of the defence team, Mr. Harry Pitman, said there was a reasonable chance that another court would have reached a different decision on the allegation that the "Viva Frelimo" rallies were held with the intention of endangering the maintenance of law and order. No defence or State witness had told the court that the Turfloop University rally had been organized by SASO, he said, contrary to what the judge had found.

Mr. Cecil Rees S.C. for the State, said the defence had failed to show substantial errors in Mr. Justice Boshoff's judgement, which could lead to an acquittal. The judge had accepted evidence of state witnesses over the defence. The inference from circumstantial evidence of a conspiracy was justified. The conclusion that their intention was to endanger the maintenance of law and order was also justified. He said the men had tried to form a Black Power bloc hostile to whites and the State with a view to confrontation. Rees accused Mr. Soggot of "going on a fishing expedition" in an attempt to discredit the evidence of key State witness, Mr. Harry Singh, ex B.P.C. official.

He said that if the court granted the nine leave to appeal, it would result in a lengthy case with no reasonable prospect of success.

Mr. Soggot said the defence's allegations of "irregularities" remained a ground for appeal. Mr. Rees' inability to see the strength of the applications made him party to a "dialogue of the deaf". (Weekend World 3.4.77).

Judgement: On 28 April Mr. Justice Boshoff delivered judgement and refused the application for leave to appeal. He also rejected the application for a special entry saying that it was "not made in good faith and was frivolous and absurd." He said that "the defence's objection to his ordering the State to supply further particulars to the 28-page indictment should have come in the form of a defence notification that their case was prejudiced in that they did not know in what way the prosecution was relying on the exhibits in the case."

(The nine convicted trialists are currently serving their prison sentences on Robben Island.)

5.9. PRETORIA SUPREME COURT

(27.4.77 -

Accused: Mosima Sexwale
Naledi Tsika
Lele Jacob Motaung
Simon Samuel Mohlanyaneng
Elias Masinga
Martin Ramokgadi
Joe Gqabi
Petrus Nchabeleng
Nelson Diale
Michael Ngubeni
Jacob Seatlholo
Paulina Mohale

Charges: In terms of the Terrorism Act and the Internal Security Act.

Summary: The accused appeared on 27 April in the Pretoria Magistrate's Court for remand until 9 May in the Supreme Court.

When the accused appeared on that date, all except Paulina Mohale were in leg irons.

According to the charge sheet, the State alleged that the main Terrorism Act offence was committed in South Africa and/or Swaziland, Mozambique, Russia and/or China.

The accused were alleged to have been members or active supporters of the African National Congress (ANC), the South African Communist Party (SACP), or Umkhonto We Sizwe (Spear of the Nation).

They were alleged to have conspired with 47 conspirators and persons unknown to the State to aid or procure the commission of, or commit, one or more of all these acts: Distribute propaganda material in support of a movement to overthrow the Government by violent means; recruit or attempt to recruit persons to join or support one or more of the abovementioned movements; train or attempt to train, and/or cause persons to be trained, in the art of waging war and/or subversion; secretly take persons out of South Africa for the two last-mentioned purposes; secretly return the persons who had received military training to South Africa, and smuggle arms, ammunition and explosives into the Republic; establish arsenals and hide-outs in the Republic; commit acts of sabotage; infiltrate associations; seek to establish and/or extend an underground organisation in South Africa by the creation of secret groups and/or cells; arrange finance to further the abovementioned objectives.

Thus, it was alleged, the accused wrongfully and unlawfully conspired to overthrow the Government of South Africa by violent means, or means which envisaged violence and in furtherance of the said conspiracy, and the accused committed certain acts.

Mr. Mosima Gabriel Sexwale was alleged to have undergone military training during December 1975 and November 1976 in Russia. After completing training, he illegally or secretly entered South Africa at Border Gate, Near Barberton, and brought arms and ammunition into the Republic during November 1976.

Mr. Sexwale, after he was detained at or near Border Gate by the police, "threw a hand grenade at two members of the South African Police with intent to kill them, thereby seriously injuring them and severely damaging a police vehicle."

It was alleged further that during November 1976 Mr. Sexwale advised, aided or instructed a person in the use of firearms and explosives; brought arms and ammunition and explosives into South Africa; incited, instigated, aided, advised, encouraged and procured some people in Sekhukhuneland, Soweto and Alexandra to undergo military training.

Mr. Naledi Tsiki was alleged to have undergone military training in Russia during or about the period December 1975 and October 1976. After completing the training, he allegedly entered South Africa illegally or secretly at a place unknown, and reconnoitred the railway at Dikgale, Pietersburg district, for purpose of sabotage.

Mr. Tsiki allegedly sabotaged the railway line during October 1976. During November 1976 he harboured a terrorist, Phineas Norman Shabalala, in Sekhukhuneland, and instructed Sam Ndaba in the use of firearms in December 1976.

Mr. Tsiki was alleged further to have recruited, attempted to recruit, incited, instigated, aided, advised, encouraged or procured some people in Vosloorus, Mpetla District, Sekhukhuneland and Alexandra to undergo military training, or become members of the ANC.

Mr. Lele Jacob Motaung was alleged to have undergone military training in Russia between February 1976 and September 1976. During October 1976 to January 1977, and during November 1976, he and others were in possession of ammunition and explosives.

Mr. Motaung, through Sammy Seatlholo, recruited attempted to recruit, incited, instigated, aided, advised, encouraged or procured some people to undergo military training.

Mr. Simon Samuel Mohlanyaneng was alleged to have illegally or secretly entered South Africa from Swaziland. During November 1976 he was in possession of concealed "firearms, ammunition, chemicals which could be used in the manufacture of explosives, explosives, or weapons or parts of weapons."

During November and December 1976, he recruited, attempted to recruit, incited, instigated, aided, advised, encouraged or procured some persons to become supporters or members of the ANC, to undergo military training, or to use firearms and explosives in Odi and Vosloorus.

Mr. Elias Ticho Masinga, who allegedly underwent military training in Mozambique, also illegally and secretly entered South Africa during October to November 1976 at Nestron, Ermelo district.

During October 1976 and December 1976, in Soweto, he allegedly infiltrated the Soweto Students Representative Council, either alone or on behalf of the ANC. He recruited, attempted to recruit, incited, instigated, aided, advised, encouraged and procured some persons to become members or supporters of the ANC to undergo military training.

Mr. Martin Mafefo Ramokgadi was alleged to have been a head of the central structure and/or main machinery of the ANC in Johannesburg in the period June 1976 to January 1977.

During January 1976 to December 1976, in Alexandra, he received a total sum of R7 500 to be used for the running of the ANC. He crossed to Swaziland at Oshoek in order to arrange funds for the ANC, and recruited some people to be members of the ANC.

Mr. Ramokgadi received secret messages inside cigarette boxes and or books from ANC officials in Swaziland to further the objects of the conspiracy.

Mr. Joe Nzingo Gqabi was alleged to have undergone military training in China during June 1962 and January 1963. During June 1976 to February 1977 he was the head of the central structure and/or main machinery of the ANC in Johannesburg.

Mr. Gqabi gave political books, arranged a meeting with student leaders of the riots in Soweto, instructed some persons in the use of firearms and explosives, and attended an ANC meeting where the violent overthrow of the Government of South Africa was discussed.

Mr. Petrus Mampogoane Nchabeleng was alleged to have attempted to procure recruits for the ANC in Sekhukhuneland in October 1976. In November 1976 he was in possession of firearms, ammunition and explosives. He recruited some persons to become members of the ANC or to undergo military training.

Mr. Nelson Letsaba Diale was alleged to have, during November 1976 incited, instigated, advised or encouraged, or attempted to procure, some people to undergo military training, and was in possession of a Russian-made pistol in January 1977.

Mr. Michael Mpandeni Ngubeni was alleged to have advised or instructed some persons to undergo military training, commit acts of sabotage, or accept ANC-sponsored scholarships, or to form ANC cells.

Mr. Jacob Gaonakala Seatlholo was alleged to have, during July 1976, aided four youths recruited for military training in Swaziland, and concealed the youths. He also allegedly harboured or concealed terrorists during October 1976 to December 1976. He was allegedly in possession of firearms, ammunition and explosives in October 1976 to January 1977, and had chemicals which could be used for the manufacture of explosives.

Miss Paulina Mamagotla Mohale was alleged to have procured or attempted to procure a person for military training during the period October 1976 and November 1976. She also allegedly typed or duplicated a pamphlet, "The Voice of the ANC (Spear of the Nation)".

Mr. C. Kinghorn, defence counsel, applied for a postponement on the grounds that it would hamper the accuseds' defence if the case were to continue. The accused still had to be extensively interviewed by the defence counsel who had not had sufficient time to consult them in prison. He asked that Mr. Ngubeni be sent for mental observation under the Mental Disorders Act. Mr. Justice Davidson said he would consider sending him for observation.

Mr. R. Tucker, the instructing defence attorney, said in support of the postponement, that the accused were not given notice, prior to their first court appearance, of the State's intention to bring them to trial. Before 18 March the accused did not have access to lawyers or to their families because they had been detained in terms of the Terrorism Act. Charge sheets involving 79 separate allegations had been served on 22 April. He said that detailed consultations were needed. The prosecutor opposed a postponement to 7 July. At the judge's request he ascertained that consultation hours could be extended and it was ruled that proceedings would recommence on 20 June. In response to a defence complaint about the use of leg irons, the prosecutor said that he could lead evidence to demonstrate the necessity of the measure. The judge said he felt the wearing of manacles in court could be dispensed with it should be done.

5.10 PRETORIA SUPREME COURT

(13.5.77 -

Accused: Breyten Breytenbach

Charges: In terms of the Terrorism Act; two alternative charges in terms of the Prisons Act. The main Terrorism Act charges were reported to cover endangering the maintenance of law and order and inciting others to be trained for a wide range of activities. However at the first appearance on 13 May in the Pretoria Magistrates' court no dates or other details were given. Breytenbach was not asked to plead and was remanded in prison until the start of a summary trial in the Pretoria Supreme Court on 20 June.

(Breytenbach is currently serving a nine-year prison sentence for conviction in terms of the Terrorism Act. For an account of his trial in 1975 see Survey of Race Relations, 1975 pp. 64-5.)

Trial 5.8. - Judgement. (Continued from page 24)

Mr. Justice van der Walt delivered judgement on 16 May and acquitted all the nine remaining accused. In his judgement he said that he had not been told the whole truth about the events of 11 September 1976. He said that part of the State case depended on the evidence of four accomplices and two accessories who were found to be unsatisfactory witnesses. The judge said that the case against one youth and Miss Motswai depended on fingerprints of the two found on petrol bombs. The two had alleged that the police forced them to touch the bombs. There was no evidence beyond doubt to incriminate them, the judge said. Apart from Miss Motswai, all the other students had made statements to Lieut. Uitenboorgadt while in custody. The judge had had found the statements inadmissible as evidence.

6.1. WITBANK CIRCUIT COURT

(28.10.76)

Accused: Mr. Daniel Mahlangu, (24)
Mr. James Skosana, (29) (Middelburg school board secretary)
a youth of 17 years

Charge: Three counts of Sabotage.

Summary: It was alleged that between July 20th and August 17th 1976, they burnt down 4 schools and a church in Middleburg township.

Seven schoolboys, as State witnesses, told court they knew nothing of the burning. They said they had been assaulted by police who forced them to make statements incriminating the accused.

Judgement: Mr. Justice Moll acquitted all three accused.

6.2. WITBANK SPECIAL COURT

(16.2.77 -

Accused: Lettie Chobe
Abram Radebe
John Msiza
Jacob Msiza
Jonas Mashego
Petrus Pilusa
Johanna Mawayo
Lizzie Mlombo
Linah Mahlangu
Maria Matjeke
Michael Mokwena

All Mabopane residents; all in detention at time of court appearance.

Charges: Sabotage, alternatively public violence, assault, theft and malicious damage to property.

Summary: Originally 20 Mabopane residents appeared on 19 November 1976 in the Pretoria Regional Court. Charges against nine of them were withdrawn and the remaining accused were remanded to appear in the Witbank Court on 16 February. They were alleged to have been part of a mob which attacked a white farmer and his wife at Rietgat on 21 June 1976. Mr. Liebenson, his family and servants were attacked and robbed of R2 800 in cash, furniture, livestock and other articles. His house was also burnt down. The accused appeared on 16 February in the Witbank Court. One was reported to have jumped bail.

6.3. WITBANK SPECIAL COURT

(9.2.77)

Accused: Moraka Pitsi
Elizabeth Tshabalala } Nigel School Teachers

Charges: Sabotage and Public Violence.

Summary: It was alleged that in June 1976 the accused incited students at Siboneweshile High School to assault Mr. Carel Pienaar, an inspector of Bantu Education. His car was stoned and burnt. Charges were withdrawn.

6.4WITBANK SPECIAL COURT

(12.2.77 -

Accused: Alpheus Malaza(15)
Amon Mkhonza(17)
David Magagula(17)
Richard Nkosi(29)
Simon Nkosi(40) a witchdoctor.

Charges: Sabotage, alternatively arson or malicious damage to property.

Summary: In evidence, one of the 17-year-olds said that on September 8, 1976 he was arrested, taken to Chrissiesmeer police station and questioned by Sergeant Abel Ngwenya. Sgt. Ngwenya and Sgt. C. Rohrich hit him when he denied knowledge of arson. On the next day he was told to take off his clothes and was then bound with rags. He was told to sit on his haunches, a stick was placed under his knees and between his elbows. He was made to hang on the stick between tables. He said: "Something was used to bite my back, buttocks and private parts."

According to a Medical doctor's evidence, four of the five men had marks on their bodies, yet he was unsure of the cause.

On 3 February Mr. Justice Curlewis found statements of the five - to the effect that they had been paid between R20 and R40 to start fires, acceptable and claims that statements were made under police threats unacceptable. In his statement, Mr. S. Nkosi claimed he was asked to enlist young people in a Black Power movement.

The prosecutor, Mr. E. Jordaan, submitted that the five accused set fire to 2 sawmills in Ermelo(R4 million damage) and to veld near white houses. The 3 teenagers could have been incited by the witchdoctor to set fire to plantations near Jessievale sawmills in Aug.-Sept. 1976. There was no doubt that "Simon Nkosi was the leader of a Black Power movement and incited others to start fires", the prosecutor said.

An 18-year-old alleged accomplice testified that in August 1976, he attended two meetings at the witchdoctor's house. "Simon told us he was forming a society or club, the aim of which was to burn farms, schools and plantations at Badplaas and Warburton." On 5 September the witness stated he accompanied Richard and Simon Nkosi to a building near the sawmills. Richard Nkosi handed him paraffin. The witness poured it next to a building in the sawmill district as instructed. Nkosi went to another building, poured paraffin and lit it. Then they ran to Simon Nkosi's car and drove to Barberton.

Richard Nkosi, Philip Nkosi, Joseph Zulu(accused) and Janga were members of an arson club, it was alleged.

Defence submitted that the State had not proved common purpose between the witchdoctor and the other four accused.

Judgement: S. Nkosi - 16 years' Imprisonment
R. Nkosi - 8 " "
Other 3 - 5 years' each

Court found Simon Nkosi guilty of setting fire to both Jessievale and Doornkloof sawmills, the plantation near Jessievale and the veld near the district. In August and September 1976 Simon Nkosi told young people to meet at his house. He told them he had formed a Black Power group and instructed them to burn sawmills, plantations, farms and schools.

He offered to protect the youths with his medicine and threatened those who would not burn, with dire consequences. Judge said Nkosi had corrupted young people and used his position as witchdoctor to influence them. Court found Richard Nkosi guilty of setting fire to Doornkloof sawmills, Ermelo district.

Three youths guilty of setting fire to plantation near Jessievale sawmills, Ermelo district.

The court accepted an alleged confession by the witchdoctor indicating that a Pretoria minister had told him to gather blacks and start a black power group, which would start fires.

7.1. CAPE TOWN SUPREME COURT

(2.11.76 - 18.11.76)

Accused: Bertram Leon Consalves(18)
Frank Leo Coutries(19)
Rudolf Leonard Knight(19)
Lesley Ivan Seleka(22)

Charges: Sabotage, alternatively in terms of the Terrorism Act,
alternatively Arson.

State witnesses:

Mr. Voskuil
Constable Y. Prinsloo
Basil Frantz (accused turned State witness)

Summary: Charges arose out of incidents on August 9 and 11, 1976 when two classrooms of the Good Hope Primary School and the Kasselsvlei Post Office, both in Bellville-South, were set alight.

Mr. Voskuil, (employed by the police since June) said that on August 10, the four accused and Mr. Basil Franz told him they had burnt down the school. Mr. Consalves told him of plans to burn down Kasselsvlei Post Office that night. Mr. Frantz asked Voskuil for a container of petrol, which he fetched for him. They then broke into the post office, and Mr. Consalves set fire to it. (Cape Times 3.11.76)

Statements by two accused made to magistrates were read out in court.

Mr. Coutries admitted to taking part in the burning. He ended his statement by saying "All I want to say is that I didn't take part in the mass demonstrations."

Mr. Knight admitted responsibility for arson at school and post office.

Constable Y. Prinsloo said in evidence that he was taken to the house of Mr. Consalves and Mr. Knight by Mr. Voskuil, a police "informer" after the fire at the post office. Prinsloo identified himself to Consalves' father. Mr. Consalves who was behind his father said "It wasn't me that set the place alight."

(It was established that the three accused made their statements willingly). (Cape Times 13.11.76)

Judgement: All four were found guilty of sabotage. Guilt was established on the evidence before the court and the confession of three of the accused.

After they had been convicted and their parents had given evidence in mitigation all four read statements from the dock. They criticised the discriminatory system in South Africa and the denial of human rights to people of colour.

Rudolph Knight spoke about his dissatisfaction with the government and the need to bring about change. "Perhaps the manner in which I had done it was wrong but on that date I could not think of any other manner by which I could show my dissatisfaction." (Cape Times 18.11.76).

Sentence:

Consalves - 6 years' Imprisonment
Knight - " " "
Coutries - 5 " "
Seleka - " " "

Passing sentence, the Judge President Mr. Justice van Zijl said that although he had heard the accuseds' story of inferior education for Blacks, Consalves and Knight had destroyed two classrooms at a Coloured school at a time when the State was struggling to provide classrooms. The four youths were entitled to express political dissatisfaction, but this did not give them the right to resort to violence and destruction of property. By burning down 2 classrooms Consalves and Knight had deprived members of their community of education facilities. Mr. Consalves' crime was deplorable. He had been a pupil at the school and was in the employ of a post office department. Mr. Knight as a law student had adopted a career which protected people against violence.

Coutries and Seleka were theological students, who instead of becoming spiritual leaders, resorted to violence to show their dissatisfaction.

Basil Frantz, who had given state evidence, had done so satisfactorily, said the judge, and was discharged.

7.2.CAPE TOWN SUPREME COURT

(15.2.77 - 18.3.77)

Accused: John Christopher Hoffman(23)
Jaiwoodien "Zane" Parker(23)
Ismail Jackson(21)

Charge: In terms of the Terrorism Act, for printing and distributing a pamphlet urging people to strike.

State Witnesses:

Mr. Frederick Francis Haupt (warned as accomplice)
Mr. John Pfeiffer; (27)
Mr. Hoffman sen.
Detective Constable Dirk Vermeulen.

In evidence Mr. Frederick Francis Haupt said that he and Mr. Hoffman had taken a copying machine to the Rylands estate home of a friend called Jeff during September 1976. At the house Mr. Hoffman introduced him to Mr. Parker and Mr. Jackson. About 10 people were present where a discussion was held on the distribution of pamphlets calling for a strike.

He drove with Mr. Jackson to the Athlone Stadium. Mr. Jackson gave 4 newspaper sellers 10c each and told them to give the pamphlets to the people after the soccer match.

The pamphlet which the accused were alleged to have printed ended: "We will start with a workers' strike to prove that South Africa's economy is wholly dependent on the black people." (Star 16.2.77)

In evidence Mr. John Pfeiffer, (27) said that he found Mr. Hoffman, and Mr. Parker working with a duplicating machine in the room which he shared with another man. The room is in the home of the Hoffman family. While they were working with papers, he (Pfeiffer) was playing records. When Mr. Hoffman returned, he scolded the men about the duplicating machine. (Cape Times 23.2.77).

Mr. Hoffman (sen.) said in evidence that on September 13 he came home and found the door of the room occupied by two boarders, Mr. Haupt and Mr. Pfeiffer, wide open. Inside he saw sheets of paper lying on the floor. Mr. Pfeiffer was asleep. A young couple were "busy with a carton". He shouted at them to get out and take whatever belonged to them. (Cape Times 24.2.77).

Detective Constable Dirk Vermeulen in evidence said that on September 30, 1976, he went to a house in Lotus Road, Lansdowne. He arrested Mr. Noel Sucit on a charge of arson. Mr. Sucit had 11 pamphlets calling for a strike. The pamphlets were identical to those found in the area from Lansdowne to Kenwyn. This included Hanover Park, Crawford and Rondebosch. He asked him where he had obtained them. Mr. Sucit told him. (Cape Times 25.2.77).

Argument in the trial was concluded on 9 March.

Judgement: (18.3.77).

Mr. Justice Theron criticised Section 6 of the Terrorism Act. It had effects of tarnishing a witness' evidence. He stated that the court was wary of the evidence of Mr. Haupt because he had said the police threatened to lock him up if he did not answer questions satisfactorily. A policeman, Sgt. Geldenhuys, had also said in evidence it was possible he had threatened Mr. Haupt with detention if he did not make a statement, and that he could be detained until he did so. All the evidence of distribution of the pamphlet came from Mr. Haupt, who had been furthermore warned as an accomplice. Mr. Justice Theron said:

"One's sympathies are with the police where they are working at high pressure and find themselves faced with prospective witnesses who are reluctant to talk.

But the mere possibility that the witness, and especially one falling into the class of accomplice, may be threatened with detention if he does not produce a satisfactory statement, is sufficient to tarnish him from the point of view of the court which is required to do justice according to our practice in a criminal sentence.

"I am not criticising the police and I am not criticising Sergeant Geldenhuys or his methods in this case, but this is one of the unfortunate results of invoking a provision such as Section 6 of the Terrorism Act.

"It may be necessary to invoke those provisions, but it does have the effect of tarnishing a witness' image for the court and making it impossible for the court to proceed with confidence upon the basis of his evidence."

Judgement: Mr. Justice Theron rejected Mr. Haupt's evidence. The three accused were acquitted.

Mr. Justice Theron said he was not prepared to exempt any of the accomplice witnesses from prosecution.

7.3. CAPE TOWN SUPREME COURT

(1.12.76 - 12.12.76)

Accused: Tom Moses

Charge: Sabotage and in terms of the Terrorism Act,
alternatively Arson.

State Witnesses:

Mr. W. Roos
Miss D. Mathews(23)

Summary: Mr. Moses was charged under Section 2 of the Terrorism Act and alternatively charged with sabotage and arson. He pleaded not guilty to the main charge (Terrorism Act) and guilty to the alternative charges.

Prosecutor, Mr. D. Uys said that evidence would be led which showed the accused was responsible for placards intimidating workers, of a Paarl plastics factory to strike or the factory would be burnt down. Evidence would further show that the unrest and riots which broke out in Paarl, occurred that same night. Mr. Moses, he alleged, was responsible for the words on the placards outside the factory, as well as burning part of the factory.

In evidence for the State:

Mr. W. Roos (production foreman of Bakke Industries Ltd. in Paarl) led evidence to the effect that at about 2 a.m. one of the workers Mr. Moses asked him what he would do if a fire broke out. Less than half an hour later part of the factory had burnt down causing damage estimated at R500 000.

Miss D. Mathews gave evidence to the effect that she saw placards telling workers to strike or the factory would be burnt down at about 12 midnight, September 8. (Cape Times 2.12.76.)

Judgement: 2.12.76

Mr. Justice Van Zijl sentenced Mr. Moses to 12 years' imprisonment for sabotage. (He was acquitted in terms of the Terrorism Act.)

The judge said no one could cause chaos in the community or use violence in order to bring about change. Moses, he said, was being charged for the violence he committed and the danger in which he placed the community. Moses knew highly inflammable goods were manufactured at the factory and that people's lives would be endangered by this action. There was no reason why changes could not come about peacefully.

On 2 December, Mr. Moses read his statement from the dock in which he said: "Your worship this is what I want to say this morning to the court, that what I did was done for my fellow man, the future life and that I was not satisfied with existing rules and regulations. What I also want to say is that I have no grudge against my fellow men and against my land". (Cape Times 2.12.76.)

7.4. CAPE TOWN SUPREME COURT

(1.12.76 - 3.12.76)

Accused: Mr. Joseph Paul Plaatjies(21) } University of Western Cape
Mr. Owen Solomon Stuurman(20) } students.

Charge: Sabotage

Summary: The two accused pleaded not guilty to a charge of sabotage, alternatively attempted arson.

In evidence, an unidentified thirdyear UWC student said he saw Mr. Plaatjies holding a bulky briefcase on the second floor of the hostel. When he returned from dinner, he saw Mr. Plaatjies again - without the briefcase. He also saw a broom placed against the doors of the fire escape. He saw, a Mr. Ismail Hoosain suddenly come out of the attic door. He reported these events to Mrs. Martin, the hostel-mother. Mr. Martin then went to the attick and found the bombs which had been inactivated.

Mr. I. Kok, a Bellville Magistrate, read statements made to him by Mr. Plaatjies part of which read as follows: "I feel sorry about what happened... but my aim was not to cause damage but to create panic".

Mr. Stuurman had said in his statement: "I was approached by Ismail and Paul... and they told me they intended placing petrol and timebombs in the hostel to cause panic and to force the rector, Mr. Van der Ross, to close down the university." (Cape Times 2.12.76)

Judgement:

Mr. Justice Van Winsen: sentenced both to five years' for sabotage.

They were found guilty of planting several petrol bombs, a homemade time bomb and a candle in the attic of the men's hostel on the campus on September 1,1976.

Mr. Justice Van Winsen said "I think I can understand why you should wish to protest but I have no sympathy with the form your protest took."

7.5 CAPE TOWN SUPREME COURT

(2.12.76 - 7.12.76)

Accused: Josephine Vincent(22)
Mathilda Morolong (21) } All post-graduate students
Mariam Klaasen(22) } at the University of the
Inocentia Linda Kathar(21) } Western Cape.

Charge: Sabotage, alternatively arson and malicious damage to property.

State Witnesses:

Miss Davids
Miss Bernadette Francis

Summary: The four accused were alleged to have set light to the womens' residence at the University of the Western Cape. Miss Davids, warned as an accomplice, testified that at 1 a.m. on 30 August 1976, the four accused women were all present in room 16 which Vincent and Davids shared. Newspapers were thrown on the floor and petrol was poured over them from containers that they had. Davids and Morolong then set fire to the baggage room.

Miss Francis, another student, testified that after the Rector, Prof. Van der Ross, had issued an ultimatum that the students should return to lectures by 30 August or face suspension, conversations in the hostel centred on the situation on the campus. She smelt petrol in the passage on the third floor of the residence and saw a chair propped against a window in the dining hall. She became more suspicious when she saw Morolong and Kathar enter the hall. She and three friends kept watch to prevent anything happening. At about 2.30 a.m. she heard a noise and glass breaking. Someone shouted that Room 16 was on fire.

All accused pleaded not guilty to the charges. Miss Vincent denied being responsible for the fire and stated that she did not believe in violence although she supported "wholeheartedly the idea of the university closing down."

Judgement: Mr. Justice M.A. Diemont acquitted all the accused and said that the State had failed to prove its case as it depended on David's evidence which was unreliable. He described Miss Davids as an untruthful witness, who had committed perjury under oath.

7.6. CAPE TOWN SUPREME COURT (9.12.76 - 16.12.76)

Accused: Elliot Ganca
Boyce Mkhonto
Youth of 16 years.

Charges: Terrorism, alternatively sabotage.

Summary: In his opening address, the prosecutor, Mr. C. du Plessis told the court that at about 8.00 pm. on 16 September, 1976, Sgt. W. Mbele noticed some men walking towards the railway line near Guguletu. He summoned the assistance of three other policemen, including Sgt. Carstensen who gave evidence. He said that he and the other policemen crept up on two men who were tampering with the railway line. He ordered them to stand still but they ran away. He fired his rifle at them until he emptied his magazine which had about ten rounds. The other police fired shotguns. One of the men was hit and died soon afterwards. The other was injured and left a trail of blood. Other evidence indicated that Elliot Ganca had shotgun wounds in his legs and was treated at Groote Schuur Hospital.

Sgt. Carstensen said that a plate coupling two rails had been removed and bolts fastening the rails to a sleeper had been loosened where the men had been crouching.

Two youths gave evidence and denied that police statements read in court were made by them. They both claimed they had been assaulted by the police at Bellville railway station. In the statements they allegedly admitted to having detailed knowledge of the incident. They said they had been "severely hurt" and were afraid to refuse to sign the statements which the police wrote. In the alleged statements they admitted to having detailed knowledge of the incident. On 15 December the State decided not to proceed with the trial. Mr. Justice Van Eeden told the accused that at that stage there was not sufficient State evidence for a conviction. He found them not guilty and discharged them.

7.7. CAPE TOWN SUPREME COURT
(8.2.77 - 9.2.77)

Accused: Frans Opperman
Dennis Davidson

Charge: Sabotage, alternatively murder.

Summary: The two were alleged to have placed sleepers on the railway line between Paarl and Franschoek. Both pleaded not guilty. The prosecutor said that evidence would be given that two men were seen putting stones and sleepers on the railway line. A woman witness saw five sleepers on the line soon after and told the police. They were then removed.

Judgement: On 9 February the two were found not guilty by Mr. Justice Steyn. The judge said that the State had not proved their guilt beyond reasonable doubt and described the witness, Mr. Paul Barnes, who said he saw the accused put "more than six" sleepers on the line, as unreliable and an alleged accomplice in addition.

7.8. WORCESTER CIRCUIT COURT
(3.2.77)

Accused: David Moos(33)

Charge: Sabotage for nearly causing the derailment of a passenger train between Worcester and Chavonnes on 7 November, by packing stones on the line.

Judgement: He was found guilty by Mr. Justice Rose and sentenced to five years' imprisonment.

7.9. CAPE TOWN SUPREME COURT
(2.3.77 - 9.3.77)

Accused: Samuel Adams(18) Frederick Schippers(19)
Floriz Anthony(19) Rodney Titus(18)
Daniel Bantam (18) Christo van der Heyde(19)
Franklin Christians(18) Leslie Wee(19)
Jesaja Hill(19) Bennet Zimri (18)
Edmond Pedro(18) 3 Youths of 17 years.
James Scheepers(20)

Charges: Sabotage, arising from unrest at the Berg River High School on 9 September 1976.

Summary: Twelve bottles containing petrol, sand and sugar, alleged to have been found in various classrooms of the school on 9 September, were handed into the court as exhibits. Mr. Gabriel Cupido, a cleaner at the school, said he had found the bottles. There were burnt-down pieces of candle in the necks of some of the bottles. A youth of 16 years told the court he was present when bottles were placed in the classrooms. He said that after the bombs had been made, some of the accused placed them in the classrooms and then returned to the classroom. He was not able to say which of the accused had placed them.

Judgement: Mr. Justice Vivier said the court could not rely on the evidence of accomplices who were State witnesses. All accused were acquitted.

7.10. CAPE TOWN SUPREME COURT
(15.3.77 - 18.3.77)

Accused:	R. Abrahams	E. Michaels	B. Zimri
	F. Anthony	J. Straus	8 Youths
	N. April	L. Wee	
	H. Cupido	B. Whittles	

Charge: Sabotage, alternatively public violence, arson and malicious damage to property arising from unrest at Berg River High School, Wellington on 10 September, 1976. Damage to the value of R50,000 was alleged to have been caused.

Judgement: Mr. Justice Burger found that three of the witnesses, all accomplices, had contradicted each other in evidence. All were found not guilty of sabotage but one youth of 16 years was found guilty of public violence and sentenced to six cuts.

7.11. CAPE TOWN SUPREME COURT
(15.2.77 -

Accused: Frans Koopman

Charge: In terms of the Terrorism Act, alternatively assault with intent to murder, attempted murder and the unlawful possession of a firearm.

Summary: Mr. Koopman pleaded not guilty to all charges. Const. W.J. van Staden and Maj. D.A. van Wyk testified that they were fired upon while travelling on the road to Hout Bay harbour on 9 and 10 September during the unrest. Major Van Wyk had thought that a small-calibre firearm was used. Koopman was alleged to have used a .22 rifle, handed into the court as an exhibit. Mr. Frederick Daniels and Mr. W.E. Rajap both testified that the accused had told them he had fired on the police. Mr. Daniels alleged that he saw Mr. Koopman with the rifle on 9 September. Mr. Rajap said the accused was a member of a gang called "Cisco Jackies." Mr. Daniels and the accused were arrested. The latter, according to evidence, showed the police where he had hidden the rifle under a bush.

8.1. Grahamstown Supreme Court
(1.2.77 - 17.2.77)

Accused: Albert Matinis(24)
Monde Tshete(21)
Galelekile Veto(21)
Zandisile Tsiki(24)
Mongamile Dinge(21)
Tandi Ntungela(26)
Oubaas Zilina(23)
Welcome Skweyiya(22)

Charges: Two counts of sabotage and alternative counts of public violence, malicious injury to property and arson. The charges related to the stoning of the Centenary Hall on 7 August, 1976 in New Brighton, Port Elizabeth. On the second charge of sabotage the accused and others were alleged to have set fire to the New Brighton Higher Primary School. Petrol bombs and paper sprinkled with petrol were allegedly used.

Summary: Outlining the first charge, Mr. J. Muller, for the State, said that on 7 August there was a boxing tournament at the Centenary Hall. At a certain stage of the evening, it was customary to allow pupils and others in at reduced prices. A large crowd was outside the hall and when told that nobody would be admitted at the reduced price, people became agitated. Police were assaulted, vehicles were stoned and two were set on fire. The accused were alleged to have taken a lead in assaulting the police.

Major R.S. Matanga, of the Transkei Police, formerly of Kwazakele, said in evidence that people in the hall panicked when windows were broken by stone throwers and teargas exploded outside. Mr. P.E. Blazey of the Bantu Affairs Administration board said damage to the school would cost about R24 000.

Mr. Tobile Sixawe, who was warned as an accomplice, said that during the stone throwing incident, one of the accused, Albert Matinis, said they should burn the police vehicles. He also said that Matinis suggested that stones should be thrown at the police to cause a diversion so that people could gain entrance to the hall.

A youth of 16 told the court that police reinforcements dispersed the crowd with teargas and that some of them regrouped and discussed burning the school as they were angry about the boxing. He said that Mr. Veto, an accused, fetched petrol from his home while some of the others drank wine at a shebeen. He said that they then went to the school, where they hurled petrol bombs in the windows, setting fire to the classrooms.

On 3 February Mr. Justice Stewart allowed Victor Mncedisi Fani to stand down as a witness because he was partly paralyzed as a result of a stroke he had allegedly experienced in prison two weeks previously. Two other youths, warned as accomplices, told the court that Mr. Matinis had slashed the seat of a police car and, with helpers, had stuffed papers into the holes and set them alight. One youth said that Mr. Tshete had brought a car tyre, set fire to it and placed it under a police van. They then pushed a Traffic Department van closer and overturned it against the burning van. It was also set alight.

At the close of the State case, Mr. E.A. Leach, for the accused, applied for the discharge of Tandi Ntungela on the grounds that there was insufficient evidence against him. Mr. Justice Stewart dismissed the application. At this stage six accomplice witnesses were excused from attending the trial and were released from detention.

At the start of the defence case various of the accused produced alibis regarding their whereabouts on 7 August. At the end of the defence case, Mr. J.G. Muller, for the State succeeded in an application to re-open his case and lead evidence in rebuttal. He called various senior police officers who testified that the original statements the accused made (which conflicted with their alibis) were correctly taken down.

Judgement: Tandi Ntungela was acquitted. All the rest were convicted and given the following sentences:

		Effective sentence
Albert Matinis	-) 7 years, - count one	} 15 years
	8 years, - count two	
Monde Tshete	-) 6 years, - count one	} 13 years each
Galelekile Veto	-) 7 years, - count two	
Mongamile Dinge	-) 5 years, - count one	} 7 years each
Zandisile Tsiki	-) 5 years, - count two	
Welcome Skweyiya	-)	
Oubaas Silina	- 5 years, count one	} 7 years
	5 years, count two	

Mr. Justice Stewart said the court had no doubt in finding that Matinis was the ringleader in the two incidents and that all the convicted accused assisted him. He said that he regarded the second offence, burning the school, as more serious than the first. The men were not connected with the school and after rioting at the hall had enough time to calm down and reconsider their actions.

8.2. GRAHAMSTOWN SUPREME COURT
(11.3.77 - 14.3.77)

Accused: Walter Sifozonke Tshikila(43) (Mr. Tshikila had previously spent six years on Robben Island for political offences related to the P.A.C.)
Joseph Lulamile Madyo(18)
Dumile Ndwandwa (18)

All accused had been in detention and in solitary confinement totalling 248 days.

Charges: In terms of the Terrorism Act.

Tshikila - Two counts of inciting people to leave the country for military training; one count of being an office bearer of the P.A.C.; one count of giving lectures on the P.A.C. and of allowing his house to be used for members of the P.A.C. Madyo and Ndwandwa - one count of attempting to leave the country to undergo military training; one count of being members of the P.A.C.; one count of giving lectures on P.A.C.

Summary: Tshikila pleaded guilty to the counts listed above but not guilty to two other counts of inciting people to leave the country for military training. Madyo and Ndwandwa pleaded guilty to all charges except the final count of giving lectures on PAC.

All the pleas were accepted by the prosecution. Dr. Cooper, for the accused, said Mr. Tshikila did what he did because he "thought he was furthering the political ideals of his fellow-men."

Judgement: Mr. Justice Kannemeyer sentenced Tshikila to 13 years' imprisonment. Madyo and Ndwandwa were each imprisoned for five years. The judge said he imposed the minimum sentence on these two because they were first offenders and from evidence before the court it had appeared that they had been keen to further their education.

He said that although Tshikila had been driven by his political ideals and had not committed the offences for personal gain, no State could tolerate movements which intended to overthrow authority by force.

8.3. GRAHAMSTOWN SUPREME COURT

(24.2.77 - 23.3.77)

Accused: Laurence Mene(30) - Detained in March 1976.

Charge: Terrorism Act. According to the charge sheet Mr. Mene was alleged to have incited six people to undergo military training; to have been a member of the P.A.C. and that he took part in the activities of the P.A.C.

Summary: The accused appeared on 24 February, was remanded again on 1 March and appeared again on 22 March. Dr. Cooper for the Defence, applied for charges against Mene to be quashed because of an incomplete indictment. He said that it was an embarrassment that the State had drafted such a vague document. He pointed out that none of the State witnesses listed in the indictment could remember the day or time of day of even one of the meetings Mene was alleged to have attended. On 23 March Mr. Justice Addeison quashed the indictment against Mene. However, he agreed to reserve a point of law for decision by the Appellate Division. The State was not precluded for formulating a new indictment, he said. Mene was released on his own recognizances.

8.4. GRAHAMSTOWN SUPREME COURT

(24.2.77 - 19.2.77)

Accused: Tembikile Myobo(50-
Tamsanqa Wilson Ketelo(40)
Zolile Keke(31)
Welcome Mafanya(30)

Charge: Terrorism Act. All were alleged to have attended PAC meetings.

Summary: After appearing with Mr. Mene for remand on 22 March, the accused were brought to trial separately. Evidence was led that they had been cautious of a former member of the P.A.C., Mr. Isaac Mafatche, who had tried to interest them in joining the PAC. They were afraid he was a police trap. According to witnesses the accused only listened to Mr. Mafatche and took no part in any discussion. The defence asked for a discharge after the evidence was led.

Judgement: Mr. Justice De Wet discharged the accused on 19 April.

Re-Detention: On 3 May Brig. Coetzee of the security police in Pretoria confirmed that Mr. Keke had been re-detained in terms of the Terrorism Act after the trial. He said he had been detained on completely different charges.

8.5. GRAHAMSTOWN SUPREME COURT
(2.4.77)

Accused: Moloi Monau Cossie (22)

Charge: Sabotage, alternatively public violence.

Summary: Cossie was alleged to have taken part in an attack on the police, and set fire to a vehicle during the unrest in New Brighton, Port Elizabeth on 18 August.

Judgement: Mr. Justice Addleson acquitted Cossie on the grounds that the State had not proved beyond reasonable doubt that he was guilty.

8.6. GRAHAMSTOWN SUPREME COURT
(14.2.77 - 17.2.77)

Accused: Mkeli Matka (18)
Zolile Goqwana (19)
Mzwabantu Lumkwana (18)
Beseti Feliti (18)
Three youths under 18

All pupils of Forbes Grant Secondary School in Ginsberg Location near King Williams' Town.

Charges: Sabotage, alternatively arson or malicious damage to property arising out of the burning of classrooms at the school on 15 September 1976. Damage amounted to R83 000.

Related claims: On 12 February it was reported that five school boys, scheduled to appear as State witnesses in the trial, had sent letters of demand to the Minister of Police and five Security policemen following alleged assaults and torture by the Security Police while they were in detention. A total of R12 500 was claimed as a result of serious bodily injuries received from alleged assaults between 9 September 1976 and 7 January 1977. The claimants were aged between 14 and 17. (Daily Dispatch 12.2.77.)

Summary: Mr. W. Jurgens, prosecuting, called eight fellow students, all under 18, to give evidence. Five were warned as accomplices. In each case their evidence differed from their statements allegedly made to the police. They identified their signatures on the statements but said that the police had prepared the statements and assaulted them into signing them. Seven of the student witnesses were subsequently arrested on charges of perjury.

Sipho Mbele, giving evidence, said that he was serving a sentence for rape in the King William's Town prison and said that he delivered a letter from the accused to the cell of a person called Mludi. Mrs. Viviers, a prison warder, said she was brought the letter by a female prisoner and handed it to her husband, Sgt. Viviers who was with W/O G.A. Hattingh of the Security Police, the officer investigating the case.

The letter was allegedly signed by Mr. Lumkwana and was entitled "Power". It said that pupils held a meeting at Forbes Grant school. A press cutting was discussed. At a second meeting office bearers were elected. It was suggested that the school should be burnt and "we all consented." The letter said that all the pupils then went home. They stole petrol by siphoning it out of a car and then went to the school to "do our job". A pupil gave Security Police 40 names of which 12 were considered responsible for the burning of the school. Then they were arrested. The letter said that after their arrest the 12 were baton-charged and forced to make statements. Three made statements and others were released. Three were taken to make confessions but were "baton charged" and made false statements.

Mr. C. Downing, a King William's Town magistrate, testified that one of the accused of 17 years voluntarily made a confession before him. However the youth testified that he was assaulted by Security Police to make the confession. The defence also alleged that the statement made by Mzwabantu Lumkwana had not been made voluntarily. Mr. Justice Eksteen ruled that the statements had been made voluntarily and were therefore admissible as evidence.

Judgement: Mzwabantu Lumkwana and the youth of 17 years were found guilty and sentenced to five years' imprisonment. The judge said that it appeared from the evidence that in committing the offences, the accused had been motivated by ideological and possibly political motives and therefore the State had been correct when charging them with sabotage. He said that if they had been older, he would have seriously considered imposing a heavier sentence.

All the other accused were acquitted.

8.7. RELATED CASE : EAST LONDON REGIONAL COURT

(30.3.77 -

Accused: Mr. Steven Biko Banned honorary president of the Black People's Convention.

Charge: Obstructing the course of Justice, alternatively subornation to perjury. The main charge was that before the Grahamstown sabotage trial Mr. Biko, personally or through three others, instructed Mr. Mbekwa and six others to change their evidence falsely, to state falsely in their evidence that they knew nothing about the case or allegations against the accused; to say that they were forced to make false statements to the police and to say they knew nothing about the alleged meeting at their school or that they knew nothing about the damaging and burning of the school.

Summary: Mr. Biko was granted bail of R500. He pleaded not guilty to both charges. At the start of the trial the defence protested against the difficulties imposed by the limited relaxation of Mr. Biko's banning order. Dr. Cooper, defence counsel, said that the order had been adjusted for the sole purpose of enabling Mr. Biko to appear in the magistrate's court in East London. "I wish to record our strongest protest on this because it deprives the accused from full consultation with his defence," Dr. Cooper said. He pointed out that defence consultations would be under pressure. The magistrate said that if difficulties were experienced consideration would be given to move the case to King William's Town.

W/O. G.A. Hattingh, investigating officer in the case against Mbekwe and six others, gave evidence and said that state witnesses in the case denied that they had attended the meeting (see trial above), claimed they had been assaulted by the police and claimed police had made them sign statements prepared for them by the police.

Under cross-examination Mr. Hattingh told the court he had supervised the interrogation of the witnesses between 11.30 p.m. on 28 September to about 4 a.m. on 29 September. Dr. Cooper said that during the sabotage trial witnesses had said they were assaulted and one of them had said he had been hit with the flat of a hand and a sjambok and kicked with a booted foot. Hattingh said that they did not use sjamboks or boots. Asked whether all the allegations of assault were false he said that they were "without foundation, not false." He said that he could not deny that some witnesses had been smacked but it was not correct to say they were mercilessly assaulted as they were most co-operative and it was unnecessary.

Mr. Boy Nkumbi(24) told the court that his cousin was one of the State witnesses in the trial. He alleged that Biko had told him it was necessary to tell his cousin to tell the judge they had been beaten up by the police and were forced to make statements. He told the court that he believed that the police had assaulted the students because his cousin had told him about it.

On 1 April a schoolboy of 15 years gave evidence and told the court that he and four other schoolboys had gone to Biko's house. He told them they should tell the judge they were forced to make statements otherwise they would be in trouble if they gave evidence to the judge that the burning of the school had been planned.

The boy said that he had been among a large group of people who had been arrested in King William's Town. "We were taken to the King police station where there were many police. I was alone in an office and was clapped twice by Mr. Malgas of the King police." He told the court he did not cry or scream when he had been hit, nor had he seen anyone else hit, but he had heard loud screams. He said that he had been frightened. Under cross-examination he said that he had been detained again on 14 March and held in solitary confinement in Fort Glamorgan prison, East London. He was interrogated by Mr. Hattingh "who wanted to know why we had changed our statements." Reverting to the original trial, the youth said that after he had given a statement to the police in the early hours of 29 September, he and other State witnesses in the trial had been called out of school and made to stand under a tree. "This was done by a Mr. Schaup and another policeman and we were told to sign a paper that was covered and was not read out to me." The youth said he had been frightened of Mr. Schaup and this was one of the reasons he had signed the document although he did not know its contents. Asked if Mr. Biko had advised the pupils to tell the judge how they had signed statements at the school in this manner, the boy said he did not think they were talking about those statements, but he was not sure.

On 6 April a second pupil of 16 years gave evidence and said that when he had been detained on 29 September he was struck with an open hand and beaten many times with a baton which the police

called "black power" because "they wanted me to explain how the school was burnt." He said that he was not the only one beaten and he had heard screams that night. He was taken before a magistrate to make a confession. He was charged with burning of the school but the charge was later withdrawn and he was then called as a witness in the trial.

He told the court that Biko had said it was important to help those charged with sabotage and if they were arrested they would be in jail for a shorter period than those charged with sabotage. He said Biko had told him they should "take the oath and then say we were assaulted and did not want to be witnesses." He said that when he had been detained a second time W/O Hattinigh had asked him to sign a typed statement and said he would be released from detention and used as a witness if he signed. At first the youth had refused. He was taken to Kei Road police station and kept in solitary confinement for 12 days. He later agreed to make a statement.

On 7 April a youth of 14 years who had been held in solitary confinement since 7 March, gave State evidence. He said that during his detention the only person he had seen, other than the police and prison warders, was a magistrate. He told the court he was dizzy and was given permission to sit down. Under cross-examination he agreed that solitary confinement was a very upsetting experience. "You feel lonely and think about all the people outside and at times you do not know what date it is." In his evidence in chief he said that Steve Biko had spoken to him on three occasions and had told him to change his statement. He denied that when he was detained with the others on 29 September he had been assaulted or had heard anyone scream or seen anyone assaulted. He had lied in his evidence in the Grahamstown trial to the effect that he had been assaulted. He admitted that police had asked him to sign a document which he was not allowed to see.

On 13 April a youth of 16 years gave evidence. He told the court that he had known nothing about the planned burning of the school and agreed under cross-examination that he had no reason to change his statement as he had told the police the truth. Under cross-examination by Adv. A.D. Kury, the youth said he had never been told at any stage by Mr. Biko to change his statement. He said that he had known nothing of the burning incident. He said that when he had been arrested he had waited in the King William's Town Security Branch offices while others had been questioned. He heard shouting and screaming. One youth came out of an office with a swollen forehead. He was questioned by Sgt. Schaup and told him he knew nothing of the burning. He made a statement and was then required to sign a covered statement which he could not read. He said that all the students who had signed statements they could not read were worried and were further concerned when they received subpoenas to testify in court.

On 14 April another youth of 16 years was called as a state witness. He gave evidence relating to his arrest and questioning. Under cross-questioning he said that he was still in solitary confinement and agreed that he wanted to be able to get out of jail and return home. He denied that he had heard screams on the night of his arrest. Another youth gave evidence. Under cross examination he agreed that witnesses had decided on their own to change their evidence.

The trial was postponed to 11 July.

8.8. GRAHAMSTOWN SUPREME COURT

(11.1.77 - 21.1.77)

Accused: 32 Kwazakhele H.S. students, (Names not published).

Charge: In terms of the Terrorism Act, alternatively sabotage and public violence. It was alleged that on 9 September, 1976 the accused conspired to lead other pupils of Kwazakhele High school, Port Elizabeth, on a protest march during which petrol and chemical bombs would be hurled at buildings. The marchers wanted the police to release two Kwazakhele students detained during August.

The accused were all arrested on the morning of the planned march before they had set out.

Thembesile Jafta(18), warned as an accomplice, told the court that lots were drawn to designate the leaders of the march so that no one would know who the real leaders were. The students were alleged to have planned to carry stones, sticks, knives, swords and pangas through the central area of Port Elizabeth, and to damage buildings and other property.

In evidence the students admitted that before the march they had discussed bombs and weapons but claimed that the weapons would be used only in the event of a police attack and assault. Mr. Jennet, for the accused, said the accused did not think of the consequences of their actions and that uppermost in the pupils' minds was the release of their two fellow pupils. He argued against a conviction for sabotage and said that the 32 wished to plead guilty to conspiring to procure to offence of public violence. The State did not accept the plea.

Judgement: The court found 31 of the accused guilty of sabotage and sentenced them each to five years' imprisonment. One youth under 18 years was acquitted.

9.1. BLOEMFONTEIN SUPREME COURT
(23.9.76)

Accused: Youth of 16 years - Std. 5 pupil of Mzarang
Higher Primcary school, Bloemfontein.

Charge: Sabotage - for setting fire to two classrooms of
the school on 26 July, 1976, causing damage estimated at R15 000.

Judgement: Mr. Justice C.M. Brink found the youth guilty. He
said that although he had claimed that he had smoked dagga
before the fire he could still be held to be culpable. He
sentenced him to five years' imprisonment.

9.2. BLOEMFONTEIN SUPREME COURT
(23.9.76)

Accused: Ernest Sello Moeng(21) - Student teacher at Strydom
Teachers' Training College,
Thaba'Nchu.

Charge: Sabotage - for setting fire to a classroom and
storeroom at the college on 23 July.

Summary: Two friends of the accused gave state evidence and
said that as they entered the school premises at midnight after
a drinking spree, Moeng suggested they should burn down the
college. They agreed. Moeng struck the match after sprinkling
methylated spirits in front of the storeroom.

Judgement: Mr. Justice Brink found him guilty and accepted
the defence submission that he was young and drunk at the time,
so he imposed the minimum sentence of five years' imprisonment.

9.3. BLOEMFONTEIN SUPREME COURT
(12.11.76)

Accused: Henry Mokheti (26) - Roma University graduate, employed
by Anglo-American Corporation.

Charges: In terms of the Terrorism Act, alternatively in
terms of the Internal Security Act.

Summary: Evidence was led that Mokheti had corresponded
with Makete Rock Mashinini, a student leader at Seshego College,
Pietorsburg, during the disturbances in 1976. Mashinini had
used several Marxist slogans in a letter. It was said that the
liberation struggle in S.A. could be won only by violence and
would be effective only if it was a socialist revolution. In
Mokheti's reply, written a month later during the rioting at
Seshego College, Mashinini was praised for his good work for "the
liberation of our country" and was encouraged to carry on. At
a previous hearing before a magistrate, the accused had admitted
writing the letter, expressed his regret for having become
involved in South African politics and asked to be deported to
Lesotho. After some State evidence, Mokheti pleaded guilty to
the alternative charge. His plea was accepted. Defence counsel
said that the accused had been offered bursaries by British and
French Universities and appealed for the minimum sentence of one
year. He also asked for suspension of the sentence as Mokheti
would be away from S.A. for some years.

Judgement: Mr. Justice Smuts said he would have to pass a sentence which would deter others, particularly people from outside, from instigating and encouraging the use of violence. Mokheti's letter had been written at a time when rioting and violence was resulting in the loss of life. He imposed a sentence of four years.

9.4. BLOEMFONTEIN SUPREME COURT
(2.11.76)

Accused: Jacob Sejake - pupil at Itemoheleng Trade School, Witzieshoek.

Charge: Sabotage for throwing a burning match into a gas filled classroom on 25 August, 1976.

Judgement: Sejake pleaded guilty and was sentenced by Mr. Justice Smuts to five years' imprisonment.

9.5. BLOEMFONTEIN SUPREME COURT
(19.11.76)

Accused: Standard eight pupil

Charge: Sabotage, arising from damage to school equipment on 26 August.

Judgement: Mr. Justice H.F. De Wet imposed a sentence of five years' imprisonment.

9.6. BLOEMFONTEIN SUPREME COURT
(18.10.76 - 29.11.76)

Accused: Mekodi Arcillia Morailane - Science teacher at Bodibeng High School in Kroonstad.

Charge: Sabotage, for having incited or influenced some people to commit crimes endangering the safety of the public on 27 August, 1976 near Bodibeng School. The State further alleged that she also calculated to damage property belonging to the State or other people.

Summary: The State alleged that a number of students at the school threw stones at a beer depot, damaged offices of the local school board, a bus and a car, as a result of what Miss Morailane had said. It was alleged that she told the students that the Soweto students were fighting for the rights of the school; that she said Bodibeng students were guilty because they had not caused any riots in Kroonstad; that she urged students to write a letter to "the World" expressing their sympathy; that she urged students to distribute placards against the system of education, to cause riots and to write letters expressing sympathy to Soweto students and to go to the streets and riot if confronted by the police or parents.

Judgement: Miss Morailane was acquitted.

9.7. BLOEMFONTEIN SUPREME COURT
(14.9.76.)

Accused: Kenani Ncube(20)

Charge: Sabotage. The State alleged that Ncube had drilled a hole in a gas bottle belonging to the Moroka High School at Thaba'Nchu in BophuthaTswana and set it alight, intending to set the government building on fire.

Judgement: He was sentenced by Mr. Justice Brink to five years in prison and was refused leave to appeal.

Application for leave to appeal: On 30 November the Appellate Division of the Supreme Court refused Ncube leave to appeal.

10.1. KIMBERLEY SUPREME COURT
(22.11.76)

Accused: Lucas Lenkwati
Jeffrey Bosego
Ernest Mokalele
Daniel Africa
Aiden Mothibi

Charges: Sabotage, alternatively public violence, arson and two counts of malicious injury to property for allegedly firing the BophuthaTswana Legislative Assembly building on 9 August, 1976.

Summary: All five accused pleaded guilty to one count of malicious damage to property and this plea was accepted by the State.

Judgement: The court duly convicted the accused and all the accused, apart from Daniel Africa were sentenced to 5 cuts and 12 months imprisonment, conditionally suspended for three years. Africa was sentenced to 6 cuts with a juvenile cane.

10.2. KIMBERLEY SUPREME COURT
(22.11.76 - 24.11.76)

Accused: Romeo More
Goodson Botha
Dorcas Mageverane
Wesley Malebo
Charles Mtsizi
Jeffrey Mokati
Benjamin Qothwane
William Molsonyane
Johannes Moletsane

Charges: Sabotage, two counts of arson and four counts of malicious damage to property.

Summary: Malebo and Mokati were not present in court and charges against them were withdrawn. More, Botha and Mtsizi pleaded guilty to one count of malicious damage to property. The others pleaded guilty to one count of arson. The State did not accept these pleas and proceeded with the case. An alleged accomplice who had previously given evidence to the Cillie Commission relating to the burning of the BophuthaTswana Assembly, gave State evidence. After his evidence had been led, the prosecutor informed the court that he was prepared to accept the pleas that had been tendered. No evidence was led on behalf of the accused.

Judgement: The court convicted the accused according to their pleas. Defence counsel addressed the court in mitigation and the following sentences were passed:

More	}	3 years (imprisonment each, of which 18 months was conditionally suspended for 3 years)
Botha		
Mtsizi		
Mageverane	}	6 years' imprisonment each of which 3 years was conditionally suspended for 3 years.
Qothwane		
Molsonyane		
Moletsane		

11.1. UMTATA SUPREME COURT
(20.10.76 -

Accused: Dumisa Ntsebeza(27)
Lungisile Ntsebeza(22) All detained during June 1976,
M. Silinga in terms of Proclamation R400
Matthew Goniwe (30)
Michael Mgobozi(22)

Charges: In terms of the Suppression of Communism Act. According to the indictment, between January 1974 and June 1976 the accused set up secret Marxist cells in the Transkei, received money for this and also established a poultry farm at Cala to raise further funds for their purpose. They were alleged to have indoctrinated 16 people in Marxist ideology.

Summary: The five were remanded in custody on 20 October, 1976, after they were refused bail. On 15 November Mr. Poswa, for the accused, applied in the Supreme Court for a postponement of the trial until the following session of the Court on the grounds that he was totally unprepared for the case. The application was refused by Mr. Justice Munnik. The State opened its case on 23 November, 1976. The first State witness, Mr. Frank Ngandi of Umtata, alleged that he had joined a study group with the accused in which they had read and discussed various books of a "subversive" nature. He said that he withdrew from the group at about the time they were thinking of the chicken farm project. Under cross-examination he conceded that the reading of books in the group had been superficial. Mr. Hector Ncokazi, detained leader of the Transkei opposition Democratic Party, gave evidence for the State. He testified that he had had discussions with Ntsebeza and a Mr. Vuyani Gobado concerning a proposed association to give information to visitors to the Transkei as an alternative to that distributed by government agencies. On another occasion he discussed the communist manifesto with Mr. Ntsebeza. "It appeared to me as if he was inclined to socialism," said Mr. Ncokazi. (Information concerning the rest of the State's case is incomplete.)

On 11 March 1977, Professor John Dugard, dean of the Faculty of Law at the University of the Witwatersrand, appeared as an advocate for the defence and called for the discharge of the five accused. He argued that the Suppression of Communism Act punished offences against the personality of the State. Independence had granted Transkei a legal personality different from the Republic of S.A. He said that evidence suggested a conspiracy against the State of South Africa and not the government of Transkei as it existed before independence. Mr. Justice Munnik refused the application on actual and legal grounds.

On 2 March Dumisa Ntsebeza gave evidence in his defence. He disagreed with the opinion of Prof. B. van der Merwe of the Rand Afrikaans University, called as an expert witness earlier in the trial, that there had to be a violent transition in a communist revolution. He claimed that he had used literature dealing with communism found in his possession, for academic purposes as a teacher. He alleged that during his interrogation, Col. J.G. Dreyer threatened him with "what happened to Mdluli", if he did not co-operate with the police.

The case was postponed on 3 March because the Minister of Police had not granted a relaxation of the banning order of Mr. Rick Turner, former senior lecturer in political science at the University of Natal, whom the defence had wished to call as an expert witness.

During argument the State prosecutor mentioned exiled Rand advocate, Alex Mlouzi, as the prime mover in an alleged plot to overthrow the governments of Transkei and S.A.

On 20 April the trial was postponed to 31 May to allow the defence sufficient time to prepare its argument.

12.1. DURBAN SUPREME COURT
(9.2.77 - 28.2.77)

Accused: Thembinkosi Abner Sithole(21)
Samuel Thamsanqa Mohlomi(19)

Charges: Sabotage, alternatively arson and two counts in terms of the Terrorism Act. The State alleged that in October and November 1976, Sithole incited Mohlomi and others to undergo military training and that both accused attempted to undergo military training and intended to endanger law and order. In terms of the sabotage/arson charges, the two were alleged to have set fire to three schools at Kwa Mashu township during October 1976.

Summary: On 9 February both pleaded guilty to the charges of arson but not guilty to the count of sabotage. Their plea was accepted. The trial proceeded concerning the charges in terms of the Terrorism Act.

Mr. Hamilton Sithole gave evidence for the State. He told the court that he and Thembinkosi Sithole decided to leave S.A. and receive military training in another country. They then intended to return to fight the soldiers of the Republic and "free the Black people". He said that he and Thembinkosi were good friends and he had not thought he would ever give evidence against him. He told the court he feared for his life and broke down and wept.

Mr. Musa Ngcobo(18) was called as a State witness. He refused to take the oath and said that he would be killed if he gave evidence. After warning him Mr. Acting Justice Vermooten sentenced him to prison for 12 months.

On 26 February Ngcobo elected to give evidence and Mr. Acting Justice Vermooten remitted his prison sentence. He told the court that in November 1976 he and Sithole had discussions about military training. They left Durban with other youths and were arrested at Golela.

Giving evidence in his own defence, Sithole told the court that he tried to leave S.A. because he was dissatisfied with the education he was getting and he wished to be a minister of religion. He denied that he had tried to leave for military training or that he had incited others to do so. He was writing his matric when he spoke to a friend, Themba Kubheka, about his dissatisfaction with his education. Kubheka said he could further his studies in Swaziland.

He discussed the question of overseas study with Mohlomi. Kubheka gave him R18 to pay for their train fare to Swaziland. Sithole said he had no intention of having military training. Mohlomi did not give evidence.

Judgement: In addition to conviction for arson, Sithole was convicted of both counts and Mohlomi of one count, in terms of the Terrorism Act.

After telling the youths that they would "reap as they sowed," the judge sentenced Sithole to a total of 14 years' imprisonment, five years' to run concurrently with the other nine. Mohlomi was sentenced to seven years' imprisonment.

Mr. Harry Pitman, for the defence, gave notice of intention to ask for leave to appeal against the conviction and sentence.

12.2. DURBAN SUPREME COURT
(22.12.76 -

Accused:	Penyell Maduna	Wiseman Khuzwayo
	Reuben Dumane	Bongani Ngcobo
	Nhlanhla Ngidi	Phinda Mhlongo
	Bongamusa Nkabinde	Sipho Molefe
	Mkonto Mthembu	Hosea Tshongwa
	Jeremiah Shongwe	Isiah Mandlenkosi
	Wilson Gule	David Khumalo
	Agnes Kobus	Mkhalelwa Mazibuko
	Michael Sambo	Manqoba Nyembesi
	C. Msomi	Bonke Dumisa

All students of the University of Zululand. Four of the accused were members of the University's Students Representative Council.

Charges: Three counts of sabotage, arson, malicious damage to property and assault with intent to murder. The State alleged that the students caused R500 000 damage to the university property including the central administration block, another administration block, 10 lecture theatres, the residences of three staff members, the post office and the campus Dutch Reform Church. They were also alleged to have destroyed 3 cars and damaged 15 others, and to have prepared placards and news bulletins on 18 June, expressing solidarity with Blacks in confrontation with police in Soweto. On the charges of assault, with intent to murder it was alleged that a Mr. Daniel Theron was grabbed by the throat, forced to the ground and hit with fists, sticks, metal rods and a brick. A Mr. Michael Reed was stoned and stabbed.

Summary: Opening the case on 9 March, Mr. Brunette recounted the State's version of events at the university from 17 June. Two of the accused, Maduna and Shongwe, discussed with another student, Mzomdlala Mdnladla, methods of identifying themselves with the people of Soweto. A prayer meeting was convened on the evening of 17 June, which more than 800 students attended. Later a student body meeting was held. A motion was passed, calling for a violent demonstration. The following morning a crowd gathered at "Freedom Square" and was addressed by Maduna and Dumane. Members of the crowd were armed with knives, sticks, iron rods, stones and bricks. The speakers allegedly exhorted the crowd to kill the white people and the crowd went to the administration building at which point violence erupted leading to the damage mentioned above.

Various members of the university staff gave evidence regarding events on 18 June. Elijah Mqaba, a first year B.Com. student, gave evidence regarding the student body meeting and the students' actions. On 15 April he testified that he had not told the truth when he said in his statement that Agnes Kobus had been present at Freedom Square on the day of the riots. He said he had no alternative as police wanted him to say that. He told the court of his detention in solitary confinement since July 1976. He said he had suffered from the effects of what he thought to be malnutrition during the first months of his detention, as a result of the bad food given him. Mr. Mqaba

gave conflicting evidence concerning particular events at the university. At that stage in his evidence he complained of a sore throat. He was examined by the district surgeon, Dr. Buchan, who told the court he was not fit to give evidence for two days. He had seen Mr. Mqaba four times during his detention for nervous complaints. He said it was possible that Mqaba could be inclined to say what he "thought people wanted him to say," because he did not have great strength of character and was suffering from nerves.

When Mqaba resumed his evidence he said he was still scared of the police and was worried about giving evidence about the ill-treatment of people by police during detention. He asked to be allowed to join the accused. Mr. Justice Milne told him it was not up to the court to decide whether he could become an accused. Under cross-examination he admitted that he could no longer say that the evidence he gave in his statement was correct.

On 28 April Mqaba refused to proceed with his evidence. Mr. Justice Milne held an enquiry into his refusal. Under questioning Mqaba said he had fears for himself as a "sell-out." He was afraid his family would also suffer victimization. He said he had a nervous breakdown on the first night of his interrogation... "and judging from the errors I have made, I fear I might wrongfully implicate the accused.... My evidence-in-chief was nothing but a song; thoroughly rehearsed and easily sung," he said. He was sentenced to four months' imprisonment for refusing to continue giving evidence by Mr. Justice Milne who said his refusal was neither just or legal.

Another witness, who was not identified for fear of victimization, told the court he was taken in August, 1976 for interrogation regarding the case. In evidence the student said that events at the university in June were chaotic. He could not remember exactly what had happened during the riots or which of the accused had done what. He tried to tell the police this but they did not want to listen. They had a sheet of events and told him what to say. "It is difficult to think of anything independently now. I know my statement to well."

Cross-examined by Mr. I. Mahomed SC, counsel for the defence, the witness said he was taken from his prison cell to an office in the same building and interrogated by security policemen for three days and two nights.

During that period he stood continuously and was not allowed to rest, wash or change his clothing. He was interrogated by two policemen at a time, working in shifts of approximately eight hours each.

In spite of repeated requests he was not allowed to go to the toilet until the morning of the second day - "I was told I should urinate in the office, then wipe it up with my own clothes", he said. "Then I told them what they wanted to know so that they would give me a chance to urinate."

He was punched repeatedly in the face and once hit his head on a wash-basin as he fell to the floor.

On other occasions he was hit in the stomach, kicked on the shins and, once, almost strangled. He tried screaming to attract the

attention of prison personnel, but whenever they came into the office to ask what was happening they were told it was nothing.

The witness said he became exhausted and confused, his mind became sluggish and concentration difficult. He claimed the policemen shouted and swore at him and called him a "kaffir" and a "half-breed", then threatened that if he did not co-operate he would be detained indefinitely. He was told that no lawyer or court would be able to help him and he would not be able to see his family.

He was allowed back to his cell on a Friday evening and not visited again by the security police until Monday when he made a statement upon their instructions. Once he began to co-operate with the police his treatment changed completely.

On 6 May Lieut. R.R. Reynolds of the Security Branch told the court that no violence was used in the questioning of detainees at Eshowe and Empangeni. He said Mr. Mqaba had made his statement "completely voluntarily." He said he had never heard any member of the Security Branch being aggressive or of detainees being refused permission to go to the toilet or being made to stand on bricks.

On 11 May the trial was adjourned until 23 May.

13.1. WINDHOEK SUPREME COURT
(26.4.77 -

Accused: Benjamin Chrispus Uulenga(24)

Charges: In terms of the Terrorism Act. He was alleged to have entered Namibia with 16 armed men from Angola towards the middle of 1976. He was arrested on a farm in the Tsumeb district on 30 June. He was alleged to have been carrying a Russian-made AK47 rifle, two loaded and one empty magazines, two rocket launchers and a quantity of ammunition rounds. He was accused of committing deeds endangering law and order in the territory or co-operating or conspiring with others to commit these deeds. (No further information on this trial was readily available at the time of writing.)

13.2. WINDHOEK SUPREME COURT
(3.5.77 -

Accused: Ruben Intengela
Michael Shikongo - Alleged Swapo supporter.
Lazarus Guiteb - Secretary of Swapo's Otjiwarongo branch.

Charges: In terms of the Terrorism Act. The indictment claimed that Mr. Intengela entered Namibia from Angola towards the middle of 1976. He was alleged to have roamed the northern white areas for three months, threatening to kill eight people if they reported his presence. He was detained by security forces in Hereroland. His alleged accomplice, Johnny Angula, was shot dead. He was also alleged to have had two Russian-made rifles in his possession and a large supply of ammunition. The other two accused were alleged to have assisted Intengela and Angula.

13.3. BLOEMFONTEIN APPEAL COURT (Appeal from Windhoek Supreme Court)
(March, 1977)

	Sentence
Appellants: Aaron Mushimba (31)	Death
Henry Shikongo (28)	Death
Rauna Nambinga (25)	7 years' imprisonment
Anna Nghihondjwa (23)	5 years' imprisonment.

Background to Appeal: The four were convicted and sentenced on 12 May in the Windhoek Supreme Court of charges in terms of the Terrorism Act. (See Survey of Race Relations, 1976 pp 482-3 for details of the trial.)

Special Entry: At Windhoek in June Mr. Justice Hart granted a special entry into the trial record. He said there had been a breach of the privileged relationship between attorney and client because spies in the defence lawyers' office had given defence documents to the police.

Appeal: The appeal was heard in the appellate division of the Supreme Court in Bloemfontein by the Chief Justice, Mr. Justice Rumpff, sitting with Mr. Justice Hofmeyr and Mr. Justice Kotze. (The full course of the appeal is not summarized as the judgement reflects the main issues that were raised.)

Judgement: Mr. Justice Rumpff said that the question in the case was whether the violation of the privilege between client and legal adviser was such that a conviction for a crime could be set aside.

Mr. Justice Rumpff said the case began when six people were charged in Swakopmund under the Terrorism Act. Only one of them was charged with contravening the Act by actions which would have helped the murderers of Chief Elifas who was shot dead on August 16, 1975, by unknown persons. The five other accused were charged with acts which had no connection with the murder of Chief Elifas.

However, inaccurate reporting by a portion of the Press created the impression during the case and during the appeal that the case concerned the murder of Chief Elifas. This was a totally incorrect impression, which placed the accused, with the exception of Shikongo, in an unfavourable light and gave an incorrect colour to the case, said Mr. Justice Rumpff.

The Chief Justice said that after a trial lasting several weeks four of the accused were found guilty.

Mr. Mushimba was found guilty of buying a fourwheel-drive Land-Rover and handing it to Victor Nkandli for delivery to people whose object was to overthrow the management and administration of South West Africa with violence. He was sentenced to death.

Mr. Shikongo was found guilty of taking three men to Onmagongwa store while he knew those men wished to abduct Chief Elifas and cause him bodily harm. These men then murdered Chief Elifas. He was also condemned to death.

Mrs. Nambinga was found guilty of giving R10 to a person for delivery to people who aimed to overthrow the management and administration of South West Africa with violence and that she collected R10 from each of two people for handing over to people who had the same object. She was sentenced to seven years' imprisonment.

Mrs. Anna Nghihondjwa was found guilty of giving R10 for delivery to people who had the same object in mind. She was sentenced to give years' imprisonment.

Referring to special entries made on the record and alleged irregularities in the trial, the Chief Justice said that at the end of 1975 the defence of the accused was placed in the hands of the firm of attorneys, Lorentz and Bone of Windhoek. A partner of the firm, a Mr. Du Preez, acted on behalf of the firm.

Mr. Du Preez was unaware that a certain Mrs. Ellis who worked for the firm had been a police informer since 1972 and had frequently supplied information to a Captain Nel of the Security Police.

Mrs. Ellis was a receptionist, telephonist, clerk and telex operator of the firm Lorentz and Bone.

She opened the post daily, was sometimes in possession of the keys of the safe, had access during office hours to the files and had sometimes typed the statements of four of the accused.

Mr. Du Preez had a typist, a Mrs. De Beer, who did Mr. Du Preez's confidential typing. Mrs. Ellis approached Mrs. De Beer and asked her to supply her with confidential information concerning the trial.

Mrs. Ellis asked Mrs. De Beer to make the documents or statements available directly so that the Security Police, represented by Capt. Nel, could make copies or photograph them.

During the trial Mrs. Ellis admitted to Mrs. De Beer that she was a secret informer for the Security Police. She told her she had made copies of a number of statements in connection with the trial which she had handed to the secret police including a statement by Mr. Shikongo, a number of other statements which she could not identify, certain telex messages and a message in code from a certain David Meroro, a leader of Swapo in London.

A partner in the firm of Lorentz and Bone was a certain Smit, who had a clerk named Mautschke. Smit was a friend of Capt. Nel and also acted as an informer for the Security Police.

Smit passed information to Capt. Nel. During 1975 he tried to persuade Mautschke to act as an informant of Capt. Nel in a civil case concerning the defence in the present case.

On May 20, 1976, after the leakage of information had been discovered, a meeting of the partners of Lorentz and Bone was held.

Originally Smit denied he had any connection with the Sécurité Police, but when confronted with a statement by Mautchke, admitted he had from time to time given information from the office to the Security Police.

Shortly afterwards Ellis and Smit left the firm.

The Chief Justice said apparently it was not merely a single privileged document or statement which had come to the notice of the representatives of the State.

The Chief Justice said the complete exclusion of the privilege was not only an irregularity but an utterly gross irregularity that as far as privilege was concerned, would be difficult to exceed.

There was no doubt that the breach of privilege in the case affected the proceedings.

The Chief Justice said because of the nature and extent of the breach of the privilege of the appellants it had to be found that the protection of the appellants by privilege before and during the trial had disappeared totally by actions of the Security Police.

The trial therefore did not comply with the justice which was demanded and justice had not been done.

The conviction and sentence of each of the appellants was set aside.

14.1. PIETERMARITZBURG SUPREME COURT
(13.5.76 -

Accused: Harry Gwala (55) Anton Xaba(42)
William Khanyile(40) John Nene(32)
Zakhele Mdlalose(51) Vusimusi Magubane(32)
Joseph Nduli(35) Matthews Meyiwa(51)
Cleopas Ndlovu(42) Azaria Ndebele(40)

Charges: In terms of the Terrorism Act, alternatively in terms of the Internal Security Act. The State alleged that the men were all members or active supporters of the ANC and that they had recruited others to undergo training of a military or political nature outside SA to assist in the overthrow of the Government by violence. Mr. Nduli was alleged to have undergone training overseas.

Background to Trial: Ndlovu and Nduli were both arrested in the Swaziland border area on 20 March 1976. The rest of the accused were all detained during November and December, 1975. Joseph Mdluli, who had also been detained in connection with investigations leading to the trial, died while in detention on 18 March, 1976. Before the trial Ndlovu and Nduli made submissions in court that they had been abducted from Swaziland. The court ruled that it nevertheless had jurisdiction to try the men.

(See Survey of Race Relations, 1976 for further background to the case.)

Summary: The case has been heard before Mr. Justice Howard and two assessors. The State called numerous witnesses to give evidence concerning the South African Communist Party (SACP), the African National Congress(ANC) and Umkonto Wesizwe and the past activities of these organizations. In certain cases the evidence of these witnesses has testified to the involvement of some of the accused in these organizations during the 1960's. The State also led evidence concerning recruitment for military training, the obtaining of arms for military action against the State and money which was allegedly utilized for ANC purposes. The State has tried to show that the ten accused were active members of the ANC who operated initially in Swaziland and then in Natal. The State also led evidence concerning a meeting held at Mr. Gwala's house on 10 August, 1975 which was allegedly convened for the purpose of discussing the ANC and its revival in S.A. All the accused, with the exception of Mr. Khanyile, Mr. Nduli and Mr. Ndlovu, were alleged to have been present. The State also cited 21 other alleged co-conspirators.

An account is given below of more important items of evidence and not all witnesses are mentioned.

The State opened its case on 4 August, 1976 and Major Hermanus Stadler and Major C.J. Dirker, both of the Special Branch, gave evidence regarding the history and activities of the ANC. Bruno Mtolo gave evidence regarding ANC activities during the 1960's when he was a member. He told the court he joined the Special Branch in 1972. On 18 August Mrs. Catherine Mkize told the court she had carried letters between Peter Gamedze in Swaziland and Harry Gwala in Maritzburg. Gwala

had sent two letters with her to Swaziland, one addressed to a Mr. B. Duma. Miss Joanna Gumede(73) testified that Nduli had instructed her to build a shack to store arms for the ANC and had provided her with the necessary material.

On 30 August Bartholomew Moru Hlapane gave evidence regarding ANC activities in the 1960's. Various evidence was given by a number of unidentified witnesses. On 2 September Silvia Gamedze, detained since 3 January 1976, testified that she acted as a courier for Gwala between May and December, 1975. She had secretly carried money, sealed envelopes and books from Swaziland. The following day Peter Gamedze, her husband, warned as an accomplice, told the court of planned methods that had been discussed with the accused to get youths across the Swaziland border illegally. Moses Sangana Bhengu, warned as an accomplice, said that Magubane had told him of an alleged ANC meeting at Gwala's house.

On 13 September Simon Johnson Sishi told the court that Matthews Meyiwa had told him of plans to take youths to the Hammarsdale area to fight against "the boers". Sipho Khubeka and Bernard Nkosi also gave evidence. The following day Alfred Mapamba Duma, an ex Robben Island prisoner, was called as a State witness but asked to be excused from giving evidence. After being warned by the judge to give his evidence he told the court of a meeting with Meyiwa at which Inkatha was discussed. The State asked for him to be declared a hostile witness. Mfana Lawrence Ngubane who had worked with Magubane at the Edendale hospital said that in January 1975 Magubane had told him that the ANC in SA was like Frelimo in Mozambique. In July Magubane had asked him to form an ANC cell.

On 27 September Mr. Harold Nxasane started his evidence which, amongst other matters, dealt with the alleged meeting at Gwala's house. Later Mrs. Merico Mthunywa, former chairwoman of the ANC woman's league for Durban-Central, told the court that Nduli had given her R200 to build a room in Clermont in which to hide youths who intended leaving the country for military training. On 4 October Michael Gumede testified that Xaba had approached him to undergo military training. He told the court that police had hit and slapped him during his detention. On another occasion they put stones in his shoes and made him stand on tiptoe. One of the white policemen then tied a brick to his testicles, he alleged. He said police threatened to assault him until he agreed that he had been recruited for military training. Mr. Justice Howard asked the prosecutor to investigate the allegations. An epileptic youth of 16 years said Nene had tried to recruit him.

On 8 October Philemon Mokoena, warned as an accomplice, said that Xaba had arranged for him to go to Swaziland for military training. The trip had not been successful. He claimed he had been assaulted while in detention. Kenneth Dhlamini said Joseph Mdluli had offered him a job in Swaziland just before he (Mdluli) had been detained. Samson Lukele testified that he had taken eight policemen to a spot at the Swaziland border where Nduli and Ndlovu were detained. On 18 October Jabulani Mdluli, nephew to Joseph, gave evidence relating to recruiting to Swaziland. He said a Mr. Dhlomo and a Mr. Zuma had received him and other students in Swaziland. They were later arrested by the Swaziland police.

The trial was postponed to 29 November. During the recess six of the accused filed a summons against the Minister of Police who had not responded to previous claims for damages totalling R40 000 as a result of alleged torture and abuse while they were in detention. Nduli and Ndhlovu each demanded R10 000. They claimed they were arrested in Swaziland on 25 March, 1976. Nduli said that he was forced over a barbed wire fence, blindfolded, dipped in the sea and subjected to electric shocks. He was also assaulted and sworn at, he said. Ndhlovu was blindfolded for about 13 days while his neck and wrists were tied with a rope. He said he was made to stand up for two days and nights while being interrogated, subjected to electric shocks and an alleged lie detector machine. Nene, Magubane, Xaba and Khanyile each claimed R5 000. All claimed that they were assaulted and sworn at by members of the security police. Magubane said he had to stand with stones in his shoes, was throttled and manhandled and had to undergo "unreasonably" long hours of interrogation. Nene claimed that the handcuffs behind his back were jerked periodically and that he was assaulted by being hit with a plank and kicked and punched. Khanyile said he was ordered to perform physical exercises, one of which included sitting on an imaginary chair. (These six accused made more detailed allegations of mal-treatment and torture during their evidence. For the sake of brevity only the allegations of other witnesses and accused are reported below.)

On 29 November, Mr. Barney Dladla, former minister in the Kwa-Zulu Cabinet, gave evidence for the defence in which he discussed the importance of trade unionism. Gwala then gave evidence in his own defence. He claimed that people had been sent out the country for training in trade unionism. Moses Mabhida, a president of exiled SACTU, had encouraged him to revive the black trade union movement in S.A. Gwala, during his evidence, spoke in favour of trade unionism as contributing towards peaceful change in S.A. He denied that he did anything to revive the ANC. He also made allegations of mal-treatment inflicted on him during his detention.

On 8 December Selby Msimang, a founder-member of the ANC, gave defence evidence. He said he and Gwala had discussed a memorial ceremony for the late Chief Luthuli in 1975. Khanyile gave evidence in defence and also made allegations regarding torture in detention. Xaba also gave evidence in defence. Mdlalose testified on 27 January, 1977, that two African policemen had put gravel into his shoes and he was told to put them on and sit as if he was sitting in a chair. The policemen then pulled him up and stood on his feet and stabbed him in the stomach with their fingers. He said that the police had also threatened to detain his wife who had recently given birth if he did not tell them "the truth." In his evidence Magubane denied that he had approached anyone to form ANC cells.

On 1 February, Judson Khuzwayo, former Robben Island prisoner and employed as a researcher at the Natal University Institute for Social Research, gave evidence for the defence and said he was detained on 5 December 1975 in connection with the case. He said he had heard screams of other detainees while in detention. He had been threatened with action against members of his family. Once he was assaulted during his detention. His interrogators had wanted him to say that he had attempted to revive the ANC.

He was released on 26 August, 1976. Russel Maphanga, who was detained for seven months in connection with the case, also testified that he had been assaulted at the Fischer Street police station in Durban. He denied State allegations that the accused had recruited him and two others into the ANC.

On 4 February Ndhlovu (accused) gave evidence relating to the manner in which he was arrested in Swaziland. He denied State allegations that he was an ANC member or that he procured groups for the purpose of subversive activities. On 10 February government pathologist Dr. B.J. van Straaten gave evidence relating to the cause of Mr. Joseph Mdluli's death. Mdluli had died as a result of force to the neck which could not have been caused by his falling over a chair as claimed by security police, said Dr. van Straaten. (For details see Administration of Security Legislation in South Africa, January 1976 - March 1977. SAIRR.)

On 14 February Dr. Louis West, a United States professor of psychiatry gave evidence relating to the use of exhaustion and confinement by interrogation to induce prisoners to give false evidence. The infliction of dependency, debility and dread all contributed towards the lowering of a detainee's resistance. He said that when extracts of the state witness' evidence had been put to him he "could recognize the symptoms of debility, dependency and dread."

On 17 February Mr. Lawrence Kuny who in 1975 had been detained in connection with the trial of Raymond Suttner, told the court how as a result of the debilitating effects of his detention and interrogation he had planned to commit suicide (See Survey of Race Relations, 1975 for an account of the Suttner trial).

On 22 February Frans Kunene who had previously given evidence for the State, was recalled by the defence and said that the police wrote his statement for him and then threatened him. When he had denied having had any political discussions with Mr. Nene, his cousin, he had been assaulted. Pebbles were put in his shoes and he was made to squat with his chin and knees against a wall, he said. When he collapsed he was struck with a sjambock. His fingernails were struck with the head of the sjambock until they bled. He had lost all his fingernails he said. He eventually agreed to give the evidence the police required. After he had agreed, he was treated far better and given privileges. He said he was taught not to mention the assaults when he gave evidence in October, 1976. He was declared a hostile witness and was charged the next day with perjury.

On 24 February, Mr. Bateman, a former trade unionist, testified that SACTU officials had been sent for training abroad in union matters. He said many trade unionists had left S.A. because of police harassment. When the defence closed its case on 1 March, the State was given permission to lead evidence on police interrogation methods. Colonel Dreyer, of the Special Branch and several other police witnesses denied assaulting detainees. Col. Dreyer said that detainees under Section six of the Terrorism Act were detained until they gave satisfactory evidence or until the Commissioner of Police ordered their

release. He said it was possible that Harry Gwala could have been interrogated for two days without sleep. Captain J.C. Fourie said that because of a possible crisis in the country it had been necessary to interrogate Gwala for 43 hours continuously in order to extract information. The State completed this evidence on 22 March and the case was adjourned until 3 May.

On that date Harold Nxasana (state witness) was recalled by the defence. His wife had filed an affidavit saying she believed he had been tortured by security branch policemen. At the time of his second appearance Mr. Nxasana had been detained for 17 months since 5 December, 1975. He told the court he had been tortured while in detention. He said a cloth was put into his mouth and a sheet was wrapped around his neck and lower face. A policeman rolled what looked like a shot putt into a cloth - "so that there would be no scratches on my face for the doctor or magistrate to see." Questioned by defence counsel, Mr. George Muller Q.C., Mr. Nxasana agreed that he had come to accept facts put to him by the police which he had first resisted. He had come to believe them. He said he could not remember what parts of his evidence-in-chief had been founded on his own experience and which had been suggested to him by the police. After testifying he broke down and expressed the fear that the Security police would kill him as a result of his admission.

On 13 May three Durban security policemen, W/O Botha, Lt. C.R. McDuling and Capt. D. Wessels gave State evidence and denied assaulting Nxasana. The trial was adjourned to 15 July for judgement.

ADDENDUM

2.3. RANDBURG SPECIAL COURT

(23.5.77)

Accused: Herbert Modise(30)

Charge: In terms of the Terrorism Act for conspiring during October 1976 to recruit students or other people from South Africa to undergo military training in Botswana and other countries.

Summary: Mr. Peter Kgatitswe told the court that he had transported Modise to Botswana late in October last year. He said that when they arrived in Botswana they met a certain Mr. Jeffrey Kgosimang who told them his work was to look after children from S.A. and to see to it that they got scholarships and military training. He alleged that Modise was more interested in military training than in the educational aspect. Under cross-examination the witness denied that Modise had actually expressed such an interest. No further evidence was led.

Judgement: Mr. Modise was acquitted.

3.11. SPRINGS SPECIAL COURT

(3.3.77 -

Accused: Mr. Selele - student at the University of the North.

Charges: Sabotage for setting alight to a lift in one of the buildings at the University, alternatively for setting alight the buildings in the Faculty of Economics.

Summary: The accused had made a confession to a magistrate while in detention. Evidence was completed on 4 March. When the court resumed on that date the accused did not appear and a warrant for his arrest was issued. The judgement was postponed sine die.

5.0. FRETORIA SUPREME COURT

(22.11.76 - 15.12.76)

Accused: Esther Maleka
David Pule Thathe

Charges: In terms of the Terrorism Act. They were alleged to have discussed military training with Matthews Maleka and Frans Sello in the Soweto area and to have persuaded them to "undergo military training outside the Republic of South Africa with the purpose of returning to overthrow the present regime by means of violence or means that envisage violence." They were also accused of transporting the two people to the Mafeking area to enable them to cross the border into Botswana unlawfully and to have given them directions and instructions about the crossing of the border and activities thereafter. These acts were alleged to have been committed between 6 and 27 March, 1976.

Summary: Matthews Maleka, cousin of Esther Maleka, testified that his cousin had asked him whether he wanted to go to Lusaka to undergo military training. He agreed and she and Mr. Thathe transported him and Sello to the Mafeking area. He was arrested with Sello at the border post. Frans Sello also gave evidence relating to the same events.

In evidence Esther Maleka claimed that Sello was an old friend of her brother Titus who was living in Botswana and doing carpentry. Sello expressed an interest in visiting Titus so she arranged a trip for him and Matthews. Thathe, a Johannesburg bus driver, gave evidence in which he claimed that he ran a pirate taxi from Soweto in order to earn money. He dropped the two youths in Mafeking because he wanted to attend the funeral of a friend. He did not ask them whether they had passports.

In argument Mr. Roy Allaway, for the accused, said that the evidence of the two alleged recruits was questionable as they had been detained under Section 6 of the Terrorism Act. It was possible that they could have felt coerced to give a statement to the police which was unfavourable to the two accused. He drew attention to contradictions in their evidence, concerning the dates and contents of meetings with Esther Maleka. Mr. Bredenkamp, for the State, conceded that the evidence of the two State witnesses had contained inconsistencies but asked that their testimony be accepted on the whole as probable and true.

Judgement: Mr. Justice Davidson convicted both the accused and sentenced them each to five years' imprisonment. He gave them leave to appeal.

6.5. WITBANK SPECIAL COURT
(21.2.77 - 4.3.77)

Accused:	Solomon Rakosa	All held in terms of Section 12(a) of the Internal Security Act.
	John Msinga	
	Ephraim Mongala	
	Lawrence Mokoena	
	Michael Mbele	
	Albert Mazibuko	
	Moses Kubeka	
	Felix Mpeka	
	Charles Mazibuko	
	Elias Silepe	
	Rossou Nconco	
	Morris Mokoena (Charges withdrawn 25.11.76.)	

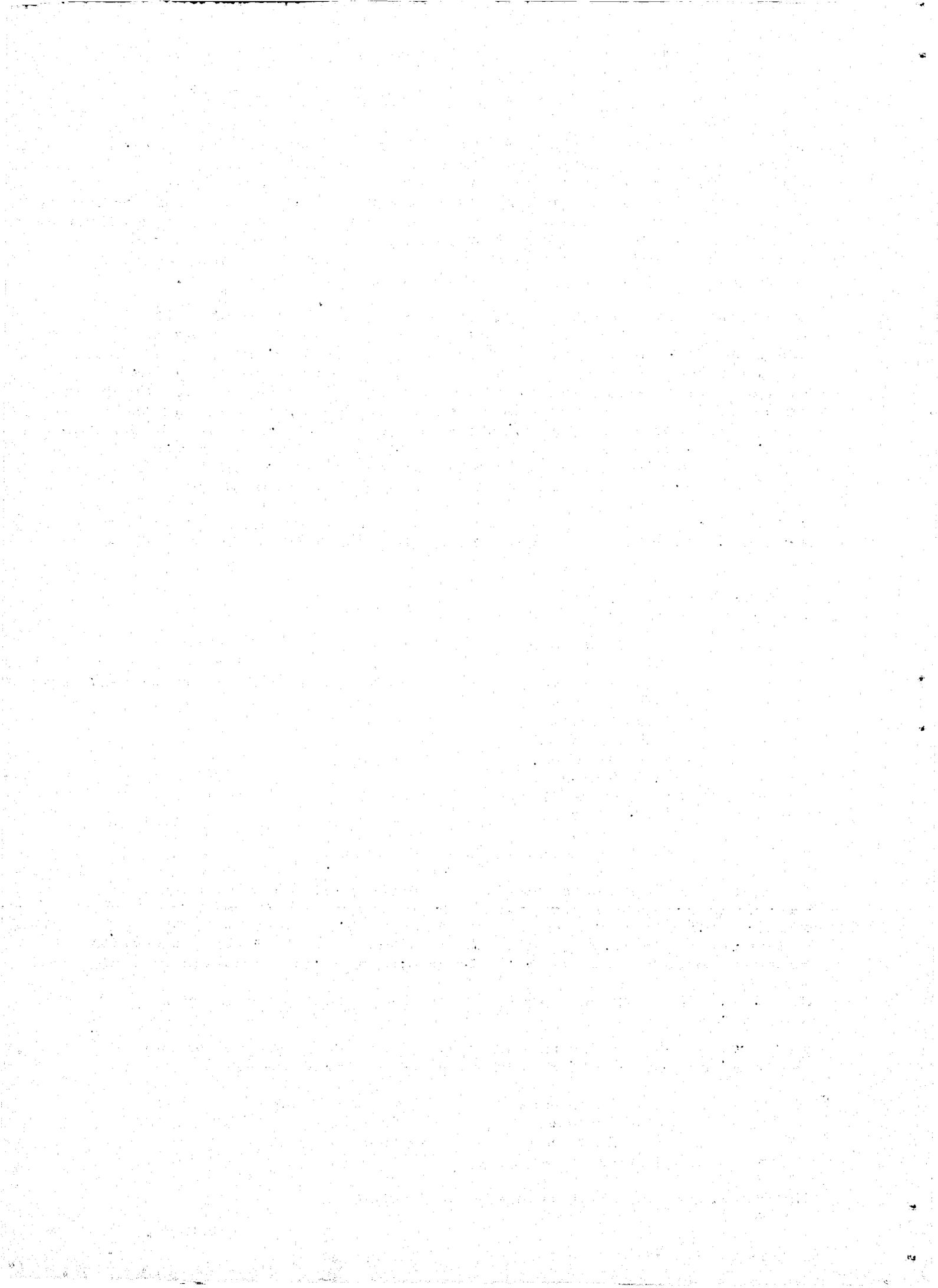
Charge: Sabotage, alternatively public violence or arson and malicious damage to property. The State alleged that they had with a common purpose on the 21 June, endangered the safety of the public by damaging buildings of the East Rand Administration Board, destroying a bus and damaging other private vehicles.

Summary: Information regarding evidence led was not readily available.

Judgement: The following accused were convicted and sentenced to imprisonment for five years by Mr. Justice Eloff:

Solomon Rakosa	Albert Mazibuko
John Msinga	Felix Mpeka
Ephraim Mongala	Rossou Nconco
Michael Mbele	

The remaining accused were all acquitted.



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MOKHETI, Henry	convicted	9.3.	49
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MOKOAPE, Maitsh	applicant	5.8.	24
MOKOENA, John	accused	4.1.	15
MOKOENA, Philemon	state witness	14.1.	64
MOKOENA, Taule	state witness	2.1.	6
MOKOKO, Khomotso	accused	5.7.	20
MOKWENA, Michael	accused	6.2.	30
MOLALA, Patrick	convicted	3.7.	13
MOLEBATSI, Abel	acquitted	3.5.	12

MOLEFI, Gift	accused	3.1.	9
MOLEFE, Sapho	accused	12.2.	56
MOLEKO, Isaac	acquitted	3.5.	12
MOLETSANE, Johannes	convicted	10.2.	52
MOLSONYANE, William	convicted	10.2.	52
MONGALA, Ephraim	convicted	3.9.	14
MONGALA, Ephraim	convicted	6.5.	69
MOODLEY, Strinivasa	applicant	5.8.	24
MOOS, David	convicted	7.8.	39
MORAILANE, Mekodi Arcillia	acquitted	9.6.	50
MORE, Romeo	convicted	10.2.	52
MOROANE, Raymond	accused	5.7.	20
MOROENG, Woodward	mentioned	3.3.	9
MOROLONG, Mathilda	acquitted	7.5.	37
MOSEHLE, Ronnie	mentioned	3.3.	9
MOSES, Tom	convicted	7.3.	36
MOSOEU, Joseph	acquitted	2.2.	7
MOTAUNG, Dele Jacob	accused	5.9.	26
MOTELEKA, Joseph	accused	5.3.	18
MOTHOBI, Aiden	convicted	10.1.	52
MOTHOBI, Patrick	state witness	2.1.	6
MOTLHANTHE, Petrus	convicted	2.2.	7
MOTSWAI, Minah	accused	5.7.	20
MPEKA, Felix	convicted	3.9.	14
MPEKA, Felix	convicted	6.5.	69
MPHO, Isaac	acquitted	5.7.	20
MQABA, Elijah	state witness	12.2.	56
MSIMANG, Selby	state witness	14.1.	65
MSINGA, John	convicted	3.9.	14
MSINGA, John	convicted	6.5.	69
MSIZA, Jacob	accused	6.2.	30
MSIZA, John	accused	6.2.	30
MSOMI, C.	accused	12.2.	56
MTHEMBU, Mkonto	accused	12.2.	56
MTHUNYWA, Merico	state witness	14.1.	64
MTSIZI, Charles	convicted	10.2.	52
MUSHI, Collins	accused	5.3.	18
MUSHIMBA, Aaron	appellant	13.3.	60
MYEZA, Justice	applicant	5.8.	24
MYOBO, Tembikile	acquitted	8.4.	43
NAMBINGA, Rauna	appellant	13.3.	60
NCHABELENG, Petrus	accused	5.9.	26
NCOKAZI, Hector	state witness	11.1.	53
NCONCO, Rossou	convicted	6.5.	69
NCONGO, Rossou	convicted	3.9.	14
NCUBE, Kenani	convicted	9.7.	51
NDEBELE, Azaria	accused	14.1.	63
NKOSTI, Bernard	state witness	14.1.	64
NDEBELE, Sibusiso	accused	2.1.	5
NDLOVU, Clecpas	accused	14.1.	63
NDLOVU, Pius	accused	1.1.	1
NDULI, Joseph	accused	14.1.	63
NDWANDWA, Dumile	convicted	8.2.	42
NDZANGA, Lawrence	mentioned	1.5.	2
NDZANGA, Rita Alita	accused	1.5.	2
NEFOLOVHADWE, Pandelane	applicant	5.8.	24
NEL, Capt.	mentioned	13.3.	61
NENE, Aaron	accused	1.1.	1
NENE, John	accused	14.1.	63
NEVHUTALU, Sgt.	state witness	3.3.	10
NGANDI, Frank	state witness	11.1.	53

NGCOBO, Bongani	accused	12.2.	56
NGCOBO, Musa	state witness	12.1.	55
NGHIHONDJWA, Anna	appellant	13.3.	60
NGIDI, Nhlanhla	accused	12.2.	56
NGUBANE, Mfana Lawrence	state witness	14.1.	64
NGUBENI, Michael	accused	5.9.	26
NGWENYA, Sgt. Abel	mentioned	6.4.	31
NGWENYA, Charles	acquitted	3.5.	12
NJARA, Henry	acquitted	3.5.	12
NKABINDE, Bongamusa	accused	12.2.	56
NKANDI, Victor	mentioned	13.3.	60
NKOMO, Nkwenkwe	applicant	5.8.	24
NKOSI, Richard	convicted	6.4.	31
NKOSI, Simon	convicted	6.4.	31
NKOSI, Stanley	convicted	2.2.	7
NKUMBI, Boy	state witness	8.7.	46
NKWANA, Mark	state witness	5.7.	23
NTOMBELA, Samuel	accused	3.2.	9
NTSEEBEZA, Dumisa	accused	11.1.	53
NTSEEBEZA, Lungisile	accused	11.1.	53
NTSELE, Walter	convicted	3.6.	13
NTUNGELA, Tandi	acquitted	8.1.	41
NXASANA, Harold	state witness	14.1.	64
NYANDA, Sphiwe	mentioned	2.2.	7
NYEMBESI, Mangoba	accused	12.2.	56
OPPERMAN, Frans	acquitted	7.7.	39
PAPO, Godfrey Matshidiso	state witness	5.7.	21
PARKER, Jaiwoodien	acquitted	7.2.	34
PEDRO, Edmond	acquitted	7.9.	39
PFEIFFER, John	state witness	7.2.	34
PHALATSE, Irene	mentioned	5.7.	23
PHATHEKILE, Sidwell	convicted	3.6.	13
PILUSA, Petrus	accused	6.2.	30
PITZI, Moraka	charges withdrawn	6.3.	30
PLAATJIES, Joseph	convicted	7.4.	37
PRINSLOO, Const. Y.	state witness	7.1.	33
QOTHWANE, Benjamin	convicted	10.2.	52
RADEBE, Abram	accused	6.2.	30
RADEBE, Elliot	convicted	3.5.	12
RAJAP, W.E.	state witness	7.11.	40
RAKOSA, Solomon	convicted	3.9.	14
RAKOSA, Solomon	convicted	6.5.	69
RAMOKADI, William	state witness	3.10.	15
RAMOKGADI, Martin	accused	5.9.	26
RATSATSI, Walter	accused	3.1.	9
REED, Michael	mentioned	12.2.	56
REYNOLDS, Lieut. R.R.	state witness	12.2.	58
ROHRICH, Sgt. C.	mentioned	6.4.	31
ROOS, W.	state witness	7.3.	36
SAMBO, Michael	accused	12.2.	56
SATHEKGE, Nephtali	accused	5.7.	20
SCHAUP, Sgt.	mentioned	8.7.	47
SCHEEPERS, James	acquitted	7.9.	39
SCHIPPERS, Frederick	acquitted	7.9.	39
SEATLHOLO, Jacob	accused	5.9.	26
SEDIBE, Gilbert	applicant	5.8.	24
SEKO, Isaac Mohlolo	convicted	1.8.	4
SEHLAKO, Wycliffe	state witness	5.7.	23
SEHLANGU, Wilson	state witness	5.7.	21
SETAKE, Caliph	accused	3.1.	9

SEJAKE, Jacob	convicted	9.4.	50
SEJOB, Dorothy	accused	3.1.	9
SELEKA, Lesley	convicted	7.1.	33
SELEKE, Jacob	accused	3.1.	9
SELELE, Mr.	accused	3.11.	68
SELLO, Frans	state witness	5.0.	68
SELAPE, Sgt.	state witness	3.7.	13
SEPHIRI, Isiah	accused	5.3.	18
SEXWALE, Mosima	accused	5.9.	26
SHIDOMO, John	convicted	3.6.	13
SHIKISHI, Sophania	acquitted	3.5.	12
SHIKONGO, Henry	appellant	13.3.	60
SHIKONGO, Michael	accused	13.2.	59
SHOLE, Manasse	accused	1.10.	5
SHONGWE, Jeremiah	accused	12.2.	56
SHUBANE, Khehla Cleopas	accused	1.5.	2
SILINGA, M.	accused	11.1.	53
SILENSE, Isaac Teboho	accused	4.1.	15
SILEPE, Elias	acquitted	6.5.	69
SIMELANE, Joseph	convicted	5.2.	16
SINGH, Harry	state witness	5.8.	24
SIPETA, Ardinot	convicted	3.6.	13
SISHI, Simon Johnson	state witness	14.1.	64
SITEPE, Elias	acquitted	3.9.	14
SITHOLE, Alson	accused	1.1.	1
SITHOLE, Hamilton	state witness	12.1.	55
SITHOLE, Thembinkosi Abner	mentioned	12.1.	55
SIXAWE, Tobile	state witness	8.1.	41
SKOSANA, James	acquitted	6.1.	30
SKWEYIYA, Welcome	convicted	8.1.	41
STADLER, Major Hermanus	state witness	14.1.	63
STRAUS, J.	acquitted	7.10.	40
SUTTNER, Raymond	mentioned	14.1.	66
STUURMAN, Owen	convicted	7.4.	37
THANI, Jeremiah	accused	3.1.	9
THATHE, David Pule	convicted	5.0.	68
THERON, Const. Jan	state witness	5.7.	22
THERON, Daniel	mentioned	12.2.	56
TITUS, Rodney	acquitted	7.9.	39
TLHARIPE, Jeremiah	accused	3.1.	9
TSHABALALA, Elizabeth	charges withdrawn	6.3.	30
TSHABALALA, Percy	accused	2.1.	5
TSHAZIBANE, Wellington	mentioned	1.8.	4
TSHETE, Monde	convicted	8.1.	41
TSHIKILA, Walter Sifozoneke	convicted	8.2.	42
TSHOKE, Arthur	acquitted	5.7.	20
TSHONGWA, Hosea	accused	12.2.	56
TSIKA, Naledi	accused	5.9.	26
TSIKI, Zandisile	convicted	8.1.	41
TSUKUDU, Obed	state witness	2.1.	5
TURNER, Rick	mentioned	11.1.	54
UITENBOORGALT, Lieut. B.J.	state witness	5.7.	22
UULENGA, Benjamin Chrispus	accused	13.1.	59
VAN DER HEYDE, Christo	acquitted	7.9.	39
VAN DER MERWE, B.	state witness	11.1.	53
VAN DER MERWE, C.J.	state witness	1.10.	5
VAN DER MERWE, C.J.	state witness	1.4.	2
VAN STRAATEN, Dr. B.J.	defence witness	14.1.	66
VARIAVA, Sadecque	acquitted	5.1.	16
VERMEULEN, Det.-Sgt. D.	state witness	7.2.	34
VETO, Galelekile	convicted	8.1.	41

VINCENT, Josephine	acquitted	7.5.	37
VISSER, Major	state witness	2.2.	7
VIVIERS, Sgt.	mentioned	8.6.	44
	state witness	8.7.	46
VOSKUIL	state witness	7.1.	33
WALLIS, F.	state witness	5.6.	20
WEE, Leslie	acquitted	7.10	39
		7.9.	
WEST, Dr. Louis	defence witness	14.1.	66
WESSELS, Capt. D.	state witness	14.1.	67
WHITTLES, B.	acquitted	7.10.	40
XABA, Anton	accused	14.1.	63
ZAKWE, Ewert	convicted	3.4.	11
ZIBI, Sgt.	state witness	3.10.	15
ZILINA, Oubaas	convicted	8.1.	41
ZIMRI, Bennet	acquitted	7.10	40
		7.9.	
ZUMA, Mr.	mentioned	14.1.	65
ZUNGU, Petrus	accused	1.1.	1
ZWANE, Kerwin	convicted	1.7.	3

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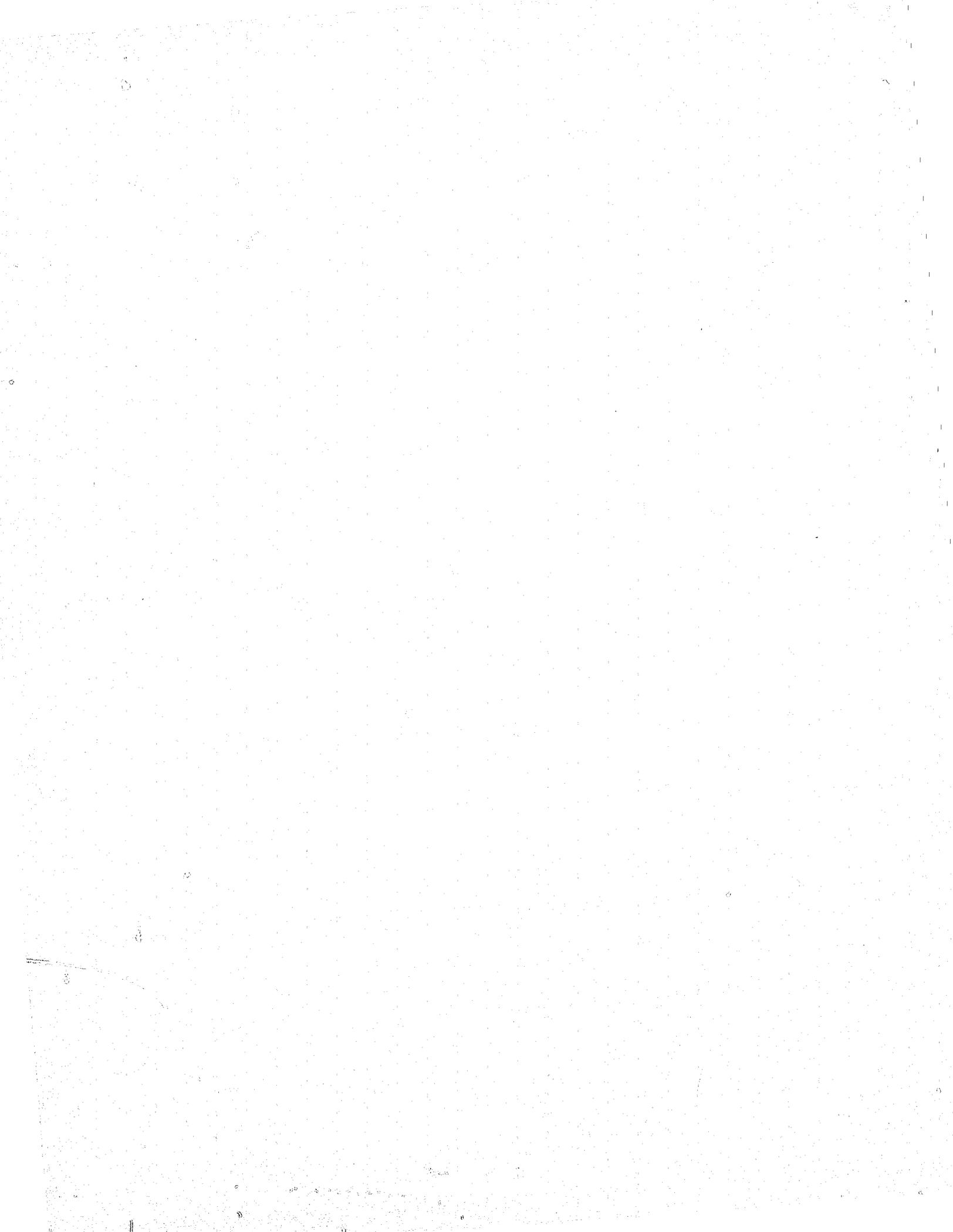
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