

S. S. No. 326: 323.2 (68232) Com.

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Volume 20

1350 ——— 1432

1,350.

ON RESUMING: 21. 11. 1960.

APPEARANCES AS BEFORE.

ALL ACCUSED PRESENT.

P.P. TO COURT:

No. 3 accused has an application to make to Your Worship before we commence any further proceedings.

BY INTERPRETER:

Accused No. 3 states that he was wearing sun glasses and he was then knocked - somebody struck him with a clenched fist on the glasses and the sun glasses got broken and some of the pieces went into the eye. He further states that he had gone to go and see a doctor at the hospital, and the doctor said he should come and see him today.

BY COURT:

Yes, what is his application?

BY INTERPRETER:

Accused further states that he is asking if he could be given a letter so that if he goes and see the doctor, the doctor shouldn't quarrel with him, if he doesn't go today.

BY COURT:

No, I suggest he go this afternoon, after we'd finished here. Anyway, if you then require a letter, I'm sure the Public Prosecutor will help you, otherwise it is a question of getting a letter for medical aid from the Native Commissioner. Is that all right?

BY ACCUSED:

All right, Sir.

BY COURT:

He doesn't complain that he can't see or can't hear the proceedings today?

BY ACCUSED:

I can see and I can hear.

MALAKIA/

MALAKIA MMOTONG b.v.:

ACCUSED NO. 8 NO FURTHER QUESTIONS.

ACCUSED NO. 38 NO QUESTIONS.

CROSS-EXAMINED BY NO. 39:

At the time that you heard of the P.A.C. - that there is a P.A.C. movement in Sharpeville, you called these politicians to your office so that you should obtain their addresses and know them? --- Some of them were called to the offices.

If I had come to your office, you would have known it? --- As I said, the others were called, and the others, we were going to see them.

There is evidence given by Mr. Wessels, stating that he called us to his office? Has Mr. Wessels ever told you that I've been to his office? --- I remember that I went to Accused No. 39's house, and there I found his father, and his father told me that he was not there. I then told his father that he should bring accused to the office.

Did I come to your office at last? --- Even if you came, I do not remember, but I know that I asked that he should come to the office.

I've heard that you once said that you came to African Cables? --- That is correct.

Was it before you went to my house, or was it afterwards? --- I do not remember whether I went first to the Accused's house, but I remember going to African Cables.

Do you not remember the date, altogether? --- I do not remember the date because I was with the European constable when I went to African Cables.

What were you going to do there? --- There I do not know, the European constable spoke to them, he started writing so I did not listen.

As you have already said that you once saw me at a meeting/

meeting at Johannesburg, was this before you came to African Cables? --- I do not remember the date when I went to African Cables, but I remember the date of the meeting in Johannesburg, the meeting where I saw the accused.

At the time that you saw met at this meeting, did you know me, or did you not know me?---I knew you.

At the time when you saw me, was it inside the hall, or was it outside the hall? --- At the time I was keeping observation accused alighted from a truck. He then went into the hall. I saw it quite clear that he went to that meeting in a truck. The others used a truck and the others used the train.

BY COURT:

You mean some used a truck and some used the train?---Some used the train.

ACCUSED No. 39:

Now let us return to the 21st of March. At the time when you saw me it was 12 o'clock?---It was past twelve.

The position in which you were standing at the time when you saw me, which position was it? --- I was in Zwane Street, next to the quarters of the married police.

In other words, there were other people standing around you there?---No, they were not standing around me but they were in front of us.

What was the distance between the people and you, where you were standing, and where these people were, in front of you? --- A distance from here, as far as this wall here, this partition.

BY COURT:/.....

MAJESTY MMOTONG v. THE
ACCUSED NO. 8 ON FURTHER
ACCUSED NO. 38 ON QUESTION
GROSS-EXAMINED BY NO. 39:
At the time that
is a P.A.C. movement in
claim to your office as
and know them? --- Some
If I had seen
As I said, the others
going to see them
There is evidence
he called us to his office
I've seen to his office?
No. 39's house, and there
told me that he was not
should bring accused to
Did I come to your
I do not remember, but I
of the office.
I've heard that you
African Cables?---That is
Was it before you
I do not remember
accused's house, but I
Do you not remember
remember the date because
when I went to African Cables
What were you doing
know the European consular
as I did not later
As you have already

BY THE COURT:

Oh, the wall at the back? --- The wall at the back, Your Worship.

That is about fifteen paces.

CROSS-EXAMINATION BY ACCUSED NO. 39 CONTINUED:

At the time Constable, I think the people were moving about and they were happy? --- That I do not know, but they were a lot of people.

At the time when you saw me there, what was I doing? --- At the time when I saw you you were calling these people with your hands

That is the time when you saw the badge that I had on? --- That is when I saw you and the badge.

What I want to know is this. At the time when you saw me calling these people, was that the time that you saw the badge? --- At the time when I saw the badge was at the time when you turned round calling these people, when you were facing us.

Can I call people facing you? Constable, at the time when you saw this badge, I understand that you even saw the lettering that was written on the badge "Africa for the Africans!"? --- I told the Court that the letters that were written on the badge are P.A.C. These are the letters I saw.

These are the words that you saw, at this distance, i.e. from here as far as the back of the Court there? --- These are the letters I saw.

Are these letters as big as these you have seen in the exhibit which is before the Court? --- I do not know if they are as big as that, but these are the letters I saw.

Constable, the badge that I had on and the badge that you saw at the meeting at No. 8171, and the meetings in Johannesburg, I want to know whether they are different, i.e.

these/....

these badges and the colours?

BY THE COURT:

Just a moment, let us make it plain. Did you see a badge on him at the meeting at Johannesburg? --- At the time when they went into the hall I did not see the badges. I saw them the following day, i.e. the Sunday.

And then at the gathering at house No. 8171, did you see a badge on this accused? --- Yes, Your Worship, I saw a badge.

And on the 21st of March did you see a badge? --- And on the 21st, Your Worship.

The question is whether they were the same badges or different badges? --- Your Worship, I did not notice the difference in these badges, but the badges were similar to the badge that he had on at the meeting at house No. 8171, and at Johannesburg. The badge at Johannesburg I did not take much notice of.

CROSS-EXAMINATION BY ACCUSED NO. 39 CONTINUED:

Constable, as you have already told the Court that you saw me on the 21st of March at the time which you have told the Court, I am putting it to you that I was not there? --- I saw you.

I have no further questions.

BY THE COURT: TO THE ACCUSED:

Do they want me to read over my notes to them of what the witness said this morning, because they did not hear everything? Perhaps I had better do that in any case. Just very roughly this is what the witness has said. (The Court reads the evidence given by this witness so far this morning).

BY MR. UNTERHALTER:

Your Worship, I have overlooked two questions at the/....

the conclusion of my cross-examination.

BY THE COURT:

I think you had better put them before I allow the Prosecutor to re-examine.

BY MR. UNTERHALTER:

As Your Worship pleases.

FURTHER CROSS-EXAMINATION BY MR. UNTERHALTER:

You have described to us last week that you were in the Seciso Street area between the hostel and a portion a little lower down, between the times of about eight and eleven in the morning of the 21st March? --- That is correct.

At any time from the launching of the teargas attack and the baton charge, until you finally left that area to go to the Police Station, did you hear any fire-arms being discharged in that neighbourhood? --- Your Worship, I did not hear any fire-arms being discharged because there was a lot of noise.

Now, you also told us that you were standing near the marked quarters in Zwane Street just about the time of the shooting at the Police Station? Am I correct? --- That is correct.

Now, just immediately before the firing commenced at the Police Station, did you perhaps hear any shots discharged in Zwane Street or near Zwane Street? --- There was a lot of noise and I cannot say whether I did hear any fire-arms being discharged.

Thank you, Your Worship.

RE-EXAMINED BY THE PUBLIC PROSECUTOR:

Now, you have mentioned that accused No. 43 is very similar to accused No. 52, and later you added that you were not quite sure whether you did in fact point out No. 43 at the identification/...

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M. Mmotong.

identification parade. You remember that? --- That is correct.
Now, the identification parade was held approximately
a month or a little less than a month after the 21st March,
1960? --- Yes.

And at the time of the parade did you have any
difficulty in pointing out the persons whom you say you did
point out? --- I had no difficulty, and if I may add, on that
day when this identification parade was held, and when I
pointed out accused Nos. 43 and 52, whom I said looked
similar, it was not the only two. There was a third one as
well.

BY THE COURT:

Now, how many people did you point out at the
parade, i.e. this parade in May?

BY THE PUBLIC PROSECUTOR:

There was one on the 19th April Sixx and there was
one later on the 19th May.

BY THE COURT : TO THE WITNESS:

How many people did you point out on the parade
at Vereeniging? --- I pointed out one person.

RE-EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

And now some six months later, now that you give
evidence, what is your ability now to remember and recall
whom you pointed out on each of the parades? --- I do not
understand the question.

Well, are you still able to tell the Court exactly
whom, and to be able to point out exactly whom you pointed
out on the parade now, as compared against the time a month
after the event, when in fact you did so at the parade? ---
our Worship, when this parade ^{was held} they were standing there, and then
remembered and then I pointed out the person I saw there.

By/....

BY THE COURT:

The question is whether you today are able to the same degree to identify the people, as you were at the time of the parade? --- Yes.

RE-EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Now, I would like you to have a look at some exhibits. Will you have a look at Exhibits 51 and 52? Now, how do those exhibits compare with the two things that you saw on accused No. 2's lapel? --- Exhibit 51 is yellow in colour, and smaller. Exhibit 52 is pink in colour, and the lettering is also small, and the exhibit itself is also small.

Now, how do those two exhibits compare with the two things that you saw on accused No. 2's lapel shortly ^{before} he was arrested or taken away by Sergeant Wessels? --- What accused No. 2 had on his lapel? I saw a yellow badge. I do not know if the pink badge was also there.

And the yellow one that you saw on accused No. 2, how did it compare in shape and size with that one that you pointed out which is now an exhibit, i.e. No. 51? --- I did not take much notice to see how big it was and the size. It could have been ^{as big} as exhibit No. 51.

Now, you have mentioned during cross-examination that after seeing P.A.C. on the lapels, you became satisfied? What did you exactly mean by that? --- I was satisfied because it was stated that on the 21st they were going to do this work that they were doing. Then when I saw them there I was satisfied.

BY THE COURT:

I am not much concerned with his views as to whether he was satisfied Mr. Prosecutor. You must satisfy me.

RE-EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Has the fact that people were shouting "Iswe Lethu!"

any/....

any special significance? --- It is not good because we are not used to what they were doing on that day there.

BY THE COURT:

What do the words mean? --- They say that this is their land.

"Iswe Lethu" means "Our country"? --- Yes, Your Worship.

In which native language is that? --- In Zulu.

And have you heard the words being used at any gatherings or meetings, except on the 21st? --- When I heard these words being used I heard it being used at the meeting in Johannesburg.

The one you have referred to? The one in the communal hall at Orlando? --- Yes, Your Worship, and I heard it being used at No. 8171 again.

At Sharpeville? --- At Sharpeville.

RE-EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

You mentioned that you saw accused No. 2 in front, then children, then women, and then men? Was it in that order that you noticed them? --- That was behind accused No. 2.

BY THE COURT:

That was in Seeiso Street? --- In Seeiso Street.

RE-EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

You further mentioned that at one stage you saw Emmanuel Teketsi wave and call to the people to follow him. Now, who were you referring to? Who is that Emmanuel Teketsi? Is he here today? That is what I am trying to find out. --- He is here.

Where is he? --- It is accused No. 8.

At that time, on that day on the 21st March, did you have a watch, a wristlet watch? --- Yes, I had one.

BY THE COURT:

A wristlet watch? --- A wristlet watch.
Not/....

Not at home? ---It was on my arm, Your Worship.

RE-EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

And when an incident occurred, did you examine your watch to relate the time to that particular incident? --- I did not look at my watch, as there was no time to look at a watch.

In other words, the times that you have given us here are your assessments of the time that you have made without the aid of a watch? Is that correct? --- Yes, that is correct.

BY THE COURT : TO THE INTERPRETER:

Did you interpret to the accused the evidence in regard to the use of the phrase "Iswe Lethu"? --- No, Your Worship.

This witness gave evidence that the use of the words "Iswe Lethu" on that day he considered not good, because they were not used to what they were doing that day. The words mean "our country" in Zulu. He also heard them at the Orlando communal hall meeting, and at the gathering at 8171, Sharpeville. In Seeiso Street there were women, children and men behind accused No. 2. Emmanuel Teketsi who called the people on is accused No. 8.

RE-EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Now, you have been cross-examined on the entries which you made in your pocket book relating to the 10th January, 1960? --- That is correct.

What I want to know from you is at what time or when do you make the notes in your pocket book in relation to the event which is occurring or which has just occurred before you make the notes? --- I make the entries in my pocket book the moment anything happens, and then I put it in my pocket book.

Now, will you have a look at an entry in your pocket book/....

book on the 19th and 20th of ^{1,350} December, 1959?

BY THE COURT:

M. Mmotong.

Mr. Prosecutor, I don't know how you got hold of that. I ruled that you may refer to certain pages only.

BY THE PUBLIC PROSECUTOR:

As Your Worship pleases. It is my submission to Your Worship, that accused No. 3 has referred to this entry in his cross-examination of this particular witness. Furthermore I do submit Sir that once the credibility of a witness is raised, as it has been

BY THE COURT:

For the moment I am not concerned with that, but how did you get access to entries on other dates outside those pages? The point was taken that the book was full of confidential entries, and that we will limit ourselves to the entries on the 10th January as they appear on three pages. Now I find that the Crown has apparently referred to entries on other pages.

BY THE PUBLIC PROSECUTOR:

As Your Worship will recall Sir, ^{the question put} ~~the question put~~ to the witness is "Will you refer to.....?"

BY THE COURT:

For the moment that may be so, but how do you explain your having had the privilege of being allowed to look at other pages, other than those mentioned?

BY THE PUBLIC PROSECUTOR:

Your Worship is accusing me of having looked at other pages?

BY THE COURT:

Entries now dated November and December.

BY THE PUBLIC PROSECUTOR:

Your Worship is making a statement of fact that I have/....

have looked at those pages? As Your Worship will recall my question was "Will you refer to an entry on the 19th and 20th of December?" That is my question. I am unaware of what is in that book Sir, until the witness - I can elicit it whether or not he has made an entry on those dates, and what that entry relates to. May I proceed then Sir?

BY THE COURT:

Mr. Prosecutor, I don't want to raise any unnecessary objections. I am not blind, I saw you paging through the book.

BY THE PUBLIC PROSECUTOR:

Oh well then, if Your Worship saw me paging through the book I will accept that. Is Your Worship barring me from putting the questions now Sir?

BY THE COURT:

Now, I want to know how it came about. Perhaps it is admissible.

BY THE PUBLIC PROSECUTOR:

Well, as Your Worship noticed I was paging through that book and I noticed that there is an entry on the 19th and 20th of December, 1959, and now I want to know what that entry is and what it relates to, and what it is about.

BY THE COURT:

Yes all right, let us hear what it is about.

RE-EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Have you got the page number or the dates, the 19th and 20th December? --- I have found it.

And to what does that relate, that entry?

BY THE COURT:

Is it one entry that you are referring to now? On page number? --- From page 37 up to page 40.

RE-EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Now, what have you got entered there? --- I have written/....

written the names of the persons I saw at the meeting in Orlando.

And what names have you got entered there?

BY THE COURT:

How does that become relevant now?

BY THE PUBLIC PROSECUTOR:

Your Worship, I submit that once the credibility of a witness has been attacked in general, and this pocket book has been ordered by the Court to be produced to discredit the witness, or to show that he has not made a consistent statement

BY THE COURT:

No, just to have his evidence tested. That is all, and not to discredit him. I have not ordered anything to discredit anybody.

BY THE PUBLIC PROSECUTOR:

No, I appreciate it. Your Worship does not make an order to discredit a person, but Your Worship ordered the book. In other words, to afford my learned friend an opportunity of cross-examining, to test the person's credibility. Now, I submit Sir that we can't with great respect have one law for the Defence to be able to test credibility, and then to bar the Crown in re-examination from further testing a man's credibility, to show that he is consistent in his credibility. It is only for that purpose that I want to re-examine on this.

BY THE COURT:

Now, who has challenged this witness in regard to the identity of people at the meeting in Orlando? You will have to help me. The evidence has been stretched over so many days that I cannot recollect. You said something about accused No. 3?

By/....

BY THE PUBLIC PROSECUTOR:

Accused No. 3. Yes, I have an idea it was accused No. 3 Sir who cross-examined as to whether he had made notes or an entry in his pocket book relating to the incidents on the 19th and 20th.

BY THE COURT:

Yes, that is right.

BY MR. UNTERHALTER:

Your Worship, I have not intervened in this discussion, but perhaps I might assist the Court with one reference. I notice that in South African Cases and Statutes on Evidence by Henry John May, in paragraph 93, it is stated that a witness cannot corroborate himself, and the case of Rex versus Christie is quoted, and it says "Therefore corroboration means evidence other than the witness' own statement". In the ordinary course Your Worship, of course it is clear that to call additional evidence to corroborate what a person himself has said by means of another statement of his, would be inadmissible. I don't know whether in the circumstances of this case, it having been raised by No. 3 accused....

BY THE COURT:

That is what I had in mind when I raised the point with you Mr. Prosecutor, but we will argue it after the tea adjournment.

COURT ADJOURNS.COURT RESUMES:BY THE PUBLIC PROSECUTOR:

Your Worship, if I might just state the historical facts which have led up to this matter so far Sir, so that I can perhaps get them in the correct perspective. It would appear that the Court ordered the production of the note-book relating to/....

to the entries on the 10th January, 1960. Now, we know that it is trite law that a witness' notes cannot corroborate him, they can only show consistency or perhaps that he might have recently fabricated some stories, or that he has a reason for now stating something else. There are two leading decisions, i.e. "Peters" versus Solomon, and Rex versus Vlok. Now, then accused No. 3 in his cross-examination put it to the witness: "I only took down the names of persons from my area known to me. I took them down in my pocket book". Now Sir, credibility is always relevant in a trial, and as stated quite aptly by Gardener and Lansdowne in Volume I, at page 542. The learned author says: "When a witness has been subjected to cross-examination, then at the close of such cross-examination the party who called the witness is entitled to re-examine him, with a view to reestablishing his credit where it may have been damaged, or explaining any points raised in cross-examination". Now, I submit Sir that my witness' credibility has been attacked, and credibility like identification, once that is raised it always becomes relevant in cross-examination to try and re-establish credit or re-establish identify, whichever the case might be. Now, my purpose in seeking to obtain evidence as to (a) whether the names are in the book, and (b) what those names are, Sir, I make it quite clear that they are not sought to be elicited to prove the facts stated therein, but merely to re-establish this man's credit. He has told us that he makes his notes at the time Sir, that he has these notes here - he has already testified in evidence, and he has been cross-examined, that the book has been produced. He shows further consistency in the keeping of his diary, and in the facts in relation to this entry, that those names which he has given in evidence are consistent with the names which he has put down in his book, Sir, and it is for that purpose only/....

only that I ask the Court's permission to elicit that information, if it is in that particular entry.

BY THE COURT : TO ACCUSED NO. 3:

Accused No. 3, your cross-examination has raised this point. Do you understand what the position is? When you cross-examined this witness about his statement that you were one of the people who attended the meeting at Orlando on the 19th and 20th of December, 1959, you elicited from him that on that day he took down the names of the people who were there, i.e. the names of those from his area and whom he knew; he took them down in his pocket book. The Prosecutor now wants to prove whether or not your name in fact is in the book, as having been at this meeting on the occasion in question. Well, do you want to address any argument to me? --- No reply.

Mr. Unterhalter, you are concerned with the question of admissibility of evidence, perhaps indirectly in this case only, but still I think you are concerned.

BY MR. UNTERHALTER:

As Your Worship pleases. Your Worship, I would make one very brief submission in reply to my learned friend. He is quite correct. The principle of "^{Pincus}Peters" versus Solomon and Rex versus Vlok is to this effect, that evidence that would otherwise be hearsay evidence, as deposing to the truth of certain events, is admitted to rebut the suggestion that there has been a recent fabrication. Your Worship will recollect that the facts in "^{Pincus}Peters" versus Solomon concerned a collision at an intersection of two streets in Johannesburg, and evidence was sought to be led of what person (a) had heard the complainant say in certain circumstances, as to the collision. It was objected to; you can't get the evidence - so it was argued - from what person (a) now reports, and if you want that evidence you must get it from the person who actually saw/....

saw it, and it was said "No, but it is not for that purpose that the evidence is being led, not to establish the fact of having seen the lorry come down the street, but to establish the fact that it was said by a certain person, the complainant in this case, at a time when he had no reason whatsoever to fabricate it, and it therefore carries the warranty of its own truth, in the very fact that it was said eight or nine months before the trial. The submission, to give Your Worship an idea of the points that were in issue, the submission was made that it was so close in fact to the collision itself, that it might indeed have been considered to have been part of the res gestae, but the Judge I think was His Lordship Mr. Justice Millin, and he decided that it was admissible on the basis of rebutting any suggestion of a recent fabrication. Similarly in criminal law in the case of Rex versus Bok, a Cape decision, a similar principle was involved. Now Your Worship, in this particular case I would say in the first instance that I gathered nothing from the cross-examination of No. 3 accused, suggesting a recent fabrication. He put certain questions in regard to "whether you did or did not write this in your pocket book". I did not understand him to suggest that the evidence he had given was false. I may be wrong in that, because I must confess I did not take a full note.....

BY THE COURT:

The position is the man is undefended. I don't quite know myself what his defence is on the point, and I don't think it is right perhaps now that I should ask him what it is. I don't want to prejudice him. He apparently cannot be asked questions until a certain stage in the proceedings has been reached, but my note also suggests that nothing, except that he was testing whether or not the witness was sure that he, No. 3, was there.

By/....

M. Mmotong.

BY MR. UNTERHALTER:

Now Your Worship, the second point that I would like to make is this. That in the ^{Pinch} "Peters" versus Solomon case, here was something reported by a third party as to what the complainant said. It was the best guarantee of the truth that the complainant had said it at that time, because it is reported by a third person. Here what my learned friend is seeking to do is not to adduce the evidence of what perhaps this witness might have said to somebody else at the time to rebut the suggestion of fabrication, but to produce what the witness himself wrote down, and as far as we know did not communicate to anybody else at all, and what warranty of truth does that carry? Your Worship, I would submit this, that the production of a previous statement is always relevant to prove an inconsistency. It is never relevant to prove a consistency, because it falls within the principle of the self-corroboration. Your Worship, for all we know, a cynical person can sit down and decide "I will corroborate myself, I will write this thing down, and then if ever I am challenged in the future there will be the proof of that". I am not saying of course that that did happen, or in fact that it usually does happen, but the Court in my submission must always be astute to safeguard itself against being tricked by a device such as that. There can be no such trick when somebody else reports what a particular witness said to him, because if witness (a) in the example that I gave to Your Worship, said "But the complainant said he saw the lorry coming down the street at thirty miles an hour" two minutes after the collision, it is a warranty of the fact that what he said then corroborates what he says in the Court today, but not if the witness himself, as in this case, has written it down, and I submit therefore Your Worship it falls clearly within the principle stated in paragraph 93

of/....

of May, and that it should be followed.

BY THE COURT:

Mr. Prosecutor, is there anything you want to mention in reply?

BY THE PUBLIC PROSECUTOR:

No Sir, except that this case is not exactly on all fours with the principle elucidated in "Pincus" versus Solomon and Rex versus Vlok.

JUDGMENT.

BY THE COURT:

At this stage the Public Prosecutor wants to lead evidence of entries made by the witness in his pocket book, as to the names of persons he saw at a meeting in Orlando on the 19th and 20th December, 1959. The Public Prosecutor can of course re-establish the credit of his witness by re-examination; that is the purpose of re-examination.

As the basis for his application the allegation is made that accused No. 3, when cross-examining the witness as to his presence, i.e. No. 3's presence, at the meeting, elicited from the witness that he took down the names of the people from Vereeniging whom he knew and whom he saw at the meeting, in his pocket book. The evidence further is to the effect that other members of the Security Section of the Police took down the names of other people at this meeting, and accused No. 3 stopped at that. I cannot recollect his challenging the witness and telling him that "I am going to prove to you that I was not there". If he had said that then the position may have been different, but he has not said that.

I/....

I don't know what his defence is going to be on the point, and for the moment I am not concerned with what his defence is going to be, and I am not going to ask him either as he is an undefended man, but there is no suggestion in the cross-examination as it stands, either expressed or implied, that the witness is not telling the truth when he said that accused No. 3 was at the meeting. At the most there may be a veiled suggestion that the witness is not reliable in that he has remembered the names of wrong people, or identified the wrong people. There is no suggestion that he is deliberately telling an untruth, that he has concocted any evidence on the point, and that being so, as I see the position now, I must rule that the Prosecutor cannot produce evidence of any entry of the names of accused persons.

BY THE PUBLIC PROSECUTOR:

As Your Worship pleases.

BY THE COURT:

The position I emphasize may be different when one day I hear the defence of accused No. 3. It depends very much on his defence, because that will contain his suggestion, his real suggestion, against the witness.

MALAKIA MMOTONG, under his former oath, continues:

RE-EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

You mentioned under cross-examination that you know who the national leaders of the P.A.C. are in South Africa?

---Yes, I said that I knew them, although I said I did not know them all.

And do you know who the national leader is, or one of the national leaders? Do you know his name? --- Yes, I know him.

Well, what is his name?

BY THE COURT:

Who is it that you know? The national leader or
one/....

one of the national leaders? --- I know Robert Sobukwe.

RE-EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

And as what do you know him? As one of the leaders or the leader? --- I know that he is the leader because he is called the President.

Where, apart from Sharpeville on the 21st March, have you seen large crowds of people? --- I do not understand the question.

Now where, apart from this particular day which was on the 21st March, 1960, and at Sharpeville, where else have you seen large crowds of people? --- Where I saw another crowd of people was at this meeting at Orlando.

Yes, thank you, Your Worship.

BY THE COURT:

How do you know Robert Sobukwe? Have you ever seen the man, seen him to identify him? --- Your Worship, I have seen him, but he was far from me and he was pointed out to me, and I was told that that is Robert Sobukwe.

And he was pointed out to you. Where was this? --- At Orlando at the communal hall.

At this particular meeting? --- At this meeting.

Well, somebody just pointed him out to you and said "That man there is Robert Sobukwe"? Is that right? --- That is correct.

And did he tell you that Robert Sobukwe had something to do with the Pan Africanist Congress? --- I was told that he was the President of the P.A.C.

And is that how you know him to ^{be} the President of the P.A.C.? --- Yes.

And apart from that, do you know him in any other way or by any other means? --- No, except what I was told, what he was.

Now/....

Now, who told you these things? --- I was told by the other members of the Special Branch.

You have been a name - I think it is Mangaliso R. Sobukwe - on one of the exhibits, is that right, on one of the pamphlets? --- Your Worship, I remember seeing it, but I cannot say on which exhibit ^{it} is.

On one of the exhibits.

BY THE PUBLIC PROSECUTOR:

It is Exhibit 5, Your Worship.

BY THE COURT:

Just let the witness look at Exhibit 5 and identify it. You have seen it on that exhibit there, that pamphlet? --- Yes.

And is that now the full extent of your knowledge of a man called Sobukwe? As a matter of fact you don't even know whether Robert Sobukwe is Mangaliso R. Sobukwe? --- No, I know that Mangaliso and Robert is the same man.

Now, you may think so, but you told me that the other members of the Special Branch pointed a man out and said "That is Robert Sobukwe"? --- That is so.

BY THE COURT: TO THE PUBLIC PROSECUTOR:

Now Mr. Prosecutor, I have asked these questions to follow up your question. It left the position in mid-air, just that he knows one of the leaders, namely Robert Sobukwe. I don't quite know on what grounds this hearsay evidence is admissible, because it is hearsay evidence and nothing else.

BY THE PUBLIC PROSECUTOR:

Yes Sir, it might be admissible to show the extent of how he gained his knowledge, and that is all.

BY THE COURT:

Well, if that is relevant it can stay on the record, but/....

but it is of no further evidential value as I can see it for the moment.

SIDWELL KELE, duly sworn, states: (Witness speaks Southern Sesuthu).

EXAMINED BY THE PUBLIC PROSECUTOR:

Are you a Native Detective Constable in the South African Police stationed at Sharpeville, Vereeniging? --- That is correct.

Now, how long have you been in the Police Force?

--- Seven years.

All of them stationed at Sharpeville, Vereeniging?

---No, not only at Sharpeville.

Now, when did you assume duty at Sharpeville? ---

I have been stationed at Vereeniging from the 23rd October, 1959.

And prior to that where were you? --- Prior to that

I was stationed here in town, i.e. in Vereeniging.

BY THE COURT:

Well, that is just it. Since when have you been at Sharpeville? --- Since October last year, i.e. 1959.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

And how long have you been living in Sharpeville?

--- Seventeen years.

Now, on the 31st March, 1960, i.e. the day that there was trouble, shooting, did you assume duty at Sharpeville Police Station? --- Yes.

How far is your house from the Sharpeville Police Station approximately? --- I think it is a mile, i.e. one mile.

At what time did you leave your house to go on duty/....

duty? --- I left my house at 7.30 a.m.

Were you dressed in civilian clothes, seeing you are a detective? --- I was dressed in civilian clothes.

And did you notice anything unusual taking place in the streets as you walked along towards the Police Station?

--- Yes.

What was it that you saw? --- I saw Bantu men, children and women, boys and girls, walking down Seeiso Street in groups.

Do you live on the Municipal office side of the Police Station? --- I am at the corner of Seeiso Street.

So you would have to walk along Seeiso Street to get to the Police Station? --- That is correct.

And what was unusual about the fact that you saw these people in the street? --- They were shouting "Africa! Iswe Letma!"

What is the significance of that? --- That means "Africa is our country!"

Now, the fact that you noticed this behaviour in the street, did that come as a surprise to you at all? --- Yes, it came as a surprise, as there were many people.

But had you been expecting any trouble as a member of the Police Force on that day? --- Yes, I was expecting trouble because I had already heard about it.

Did you ever have anything pushed under your door or into your letter box before the 21st March? --- No, nothing was placed there.

Did you see anybody amongst these groups that you knew as you were walking along towards the Police Station?

--- Yes, there is one I knew.

Who was it? --- I saw Emmanuel Teketsi, and there were others too whom I knew there.

Well/....

Well, let's deal with the one you have named. How long have you known this man Teketsi? --- I know him for a long time.

Will you be able to point him out? --- Yes, I can point him out.

Is he here today? --- Yes, he is here.

BY THE COURT:

Go and point him out, just go and touch him. --- It is accused No. 8, Your Worship. (Witness points out accused No. 8).

You have now touched him, accused No. 8? Is that right? ---Yes.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

What was accused No. 8 doing when you saw him? --- Accused No. 8 was walking in front of the crowd, and he was shouting "Africa!", and even waving his hands; he was demonstrating, and the crowd was following him.

Did you notice whether he had anything on his clothes at all? --- No, I did not notice anything on his clothing.

And in which direction was the crowd of people and No. 8 accused moving? --- As they were walking down the street they were walking eastwards.

Eastwards? --- Eastwards.

Is that towards the Municipal building, in that direction? ---Yes.

And what was your estimation of the crowd of people who were following No. 8? --- About 300.

And of these persons, can you tell the Court which sex was the most, males or females? --- There were many men there; there were a few females, but most of them were men.

Did you notice whether there were any weapons amongst/....

amongst the members of the crowd? --- At that time I noticed no weapons.

And did you hear any shouts other than just "Iswe Lethu" and "Africa"? --- There were shouts.

What did you hear being said? --- They were talking about passes, that "From today we will not carry passes!"

Were you able to gather at all from what was said by anybody in this crowd that was following No. 8, as to where it was going? --- As they were walking down the street I thought that they were going to the Municipal offices.

And "From today we will not carry passes", what passes did you infer they were not going to carry? --- I thought they were referring to the reference books.

And can you tell us where exactly these this crowd was when you noticed it moving eastwards towards the Municipal offices, whereabouts in Seeiso Street in relation to some point that you know, the market, the schools, or wherever it could be? --- This crowd was at the second bus stop as you go into Sharpeville when I saw it.

Is that the second bus stop away from the terminus on the way out of Sharpeville? --- Yes.

Will you have a look at Exhibit 2? Now, Exhibit 2 is a photograph of Sharpeville Native Township. Do you recognise it as such, and can you see where Seeiso Street is first of all?

BY THE COURT:

Mr. Interpreter, you can tell the witness that this photograph was taken from the air, apparently from the southern side, from the Vaal river side, and flying away from the river.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Have you got Seeiso Street? --- Yes.

Can/....

Can you see where the shops are just near where the Sharpeville Police Station is? --- Yes, I see it.

And can you find the bus terminus? --- I see the bus terminus.

BY THE COURT:

The bus terminus is off the street, is it? --- It is not right off the street, it is just next to the street.

EXAMINATION CONTINUED:

Now, will you be able to put a little "b" on that exhibit to show where you saw accused No. 8 and this crowd of 300?

BY THE COURT:

Mr. Prosecutor, perhaps we had better just draw his attention to the schools, the milk depot, the post office, and the hostel? Look at all of them first, and then, if you can, indicate to me where you saw these people?

Now, are you properly orientated? Can you understand the photograph now? --- Yes, Your Worship.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Now, will you be able to point out the place on the Court plan where you saw accused No. 8 and this crowd when you first became aware of them? --- Yes. (The witness indicates a spot on the plan).

BY THE COURT:

He's got the "b" directly opposite "melkdepot en poskantoor". He has written it on that part of the plan before me which is black.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Were you molested at all or interfered with on your way past this group when you walked up? --- This group did nothing to me.

And when you arrived at the Sharpeville Police Station/....

Station, which entrance did you go into, the big gate on the what we call the western side, you know where the vehicles go in, or some other small gate? Which gate did you enter by?
 --- I used the gate on the western side of the Police Station which is used by the vehicles.

And as you enter that gate you have a certain amount of the view in Zwane Street just past the Police Station, have you not? --- Yes.

Did you have to be on duty at eight o'clock? --- Yes.

So was it near eight when you arrived at Sharpeville Police Station? --- Yes, it was near eight.

Were there any crowds gathered about the Police Station at that time? --- There were no crowds there.

And did you remain at Sharpeville Police Station right throughout until the Police opened fire? --- I remained at the Police station until the time when the Police opened fire.

Now, when did you notice the people starting to come to the Police Station? What time was it? --- I think it was about ten and eleven.

And how did they arrive there? In one big crowd or in dribbles and drabbles? --- No, they came there in groups, one group after the other.

Did you ever see accused No. 8 again? --- Yes, I saw him again.

What time was that? --- I think it was eleven when I saw him.

And where was he when you saw him? --- He was walking in front of this group.

How big was the group? --- By this time there were many, there were hundreds.

Was it a bigger group than the one you had seen him/....

him walking in front of earlier that morning? --- Yes, it was a bigger group.

Could you give the Court any idea whether it was twice the size, or how many times bigger than the group you saw that morning? --- This group was bigger than the first group. I think it could be about four times as big.

And from which direction was this group coming? --- This group was walking in Zwane Street towards the Police Station.

Did it approach from the east or from the west? --- They were coming from the east.

And where was the group taken to by No. 87? --- This group came to the Police Station.

Where did it take up its position, on the southern side or on the western side? --- This group took up its position on the western side.

And did you notice whether there were any weapons amongst the people comprising this group? --- Yes, I saw some weapons.

What sort of weapons did you see? --- I saw sticks that they were carrying.

Were there more men or women in this group? --- This group that was carrying sticks was made^{up} out of men only.

And what was the average age of this group of men? --- The ages would run from 19 to 25.

And how did this group behave as it was coming along to take up its position? --- I would say they were very active.

Very active? --- Very active.

What do you mean by very active? Could you be more/....

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more explicit, could you explain that? --- They were talking a lot and you could see that they were clever.

Clever? --- Clever.

Did you hear what was being said by members of this crowd? --- They were shouting again and talking about passes, saying that "From today we won't carry passes!", and they were shouting "Africa!" as well.

And after this group had positioned itself on the western side, did you see what happened to No. 8 accused? --- Accused No. 8 was walking up and down in front of the group, after the group had stopped there, and he kept on raising his hands and shouting "Africa! Iswe Lethu!", and then the group demonstrated and did the same.

Can you recall who was the senior officer at the Police Station when that was happening? Who was the officer with the highest rank there? --- Lieutenant Visser. He is stationed here at Vereeniging; he was there.

Did you see Lieutenant Visser speak to anybody on the crowd's side, i.e. not a Policeman? --- I saw him speaking to somebody.

Do you know the person whom he spoke to? --- I know the person.

Who is it that he spoke to? --- He spoke to Nyakane Tsolo. He spoke to him in the Police yard.

And will you be able to point out this man Nyakane Tsolo? --- Yes.

Will you please point him out if he is here today? --- (The witness points out accused No. 3). It is accused No. 3.

Did you notice No. 3 accused before Lieutenant Visser spoke to him? --- Yes, I saw him. I saw accused No. 3.

On/....

On which side of the Police Station had you seen him? --- On the southern side of the Police Station.

And what had he been doing there? Did you notice? --- He was also shouting "Africa! Iswe Lethu!", and he was also followed by a crowd which was following him, i.e. on that side, and at the time when I saw him there they were already standing there.

Oh, they were already standing there? --- He was standing next to the fence.

Am I to infer, when you say that they followed him, that he apparently gave some sign and the crowd responded? Is that what you mean? --- That is correct.

And where was he when he was doing this, or following this procedure, in relation to the crowd? Was he on the side of it, in front of it, or at the back of it? --- He was in front of the crowd, walking.

And from that crowd did you hear any shouts out of the crowd which you could understand? --- They were speaking about passes and shouting "Africa!"

Did you hear any other words being uttered apart from those? --- I just heard from the crowd that "Today, if they do not arrest us, we are going to destroy this Police Station".

From which crowd did that come from? Which side of the crowd?

BY THE COURT:

Just repeat that. What was said? --- "Today, if they do not arrest us, we are going to destroy this Police Station!"

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

From which side of the Police Station did that come/....

From? --- From the western side of the Police Station.

Was No. 8 accused there at the time that you heard that? --- Accused No. 8 was there.

Were you able to overheard the conversation that took place between Lieutenant Visser and No. 3 accused? --- No, I did not hear it.

Did you see how No. 3 accused behaved towards Lieutenant Visser? --- He behaved well, because he spoke to the Lieutenant.

And after speaking to the Lieutenant did you see what No. 3 did, or where he went? --- Yes, I saw him.

Now, what did he do? --- He turned and walked back to the crowd, and when he got there he shouted "Africa! Iswe Lethu!" and the crowd responded.

Now, what were your emotions that day? What did you feel about the fact that here you were a Policeman, and there was this crowd around the Police Station? --- I was very much frightened to see such a large crowd of people.

Why were you so frightened? Was it just the fact that there was a large crowd that frightened you, or was there something else? --- I was frightened to see such a large crowd of people.

Did this crowd appear friendly or not to you? --- No, to me these people looked as if they were prepared for a fight.

And what were you afraid would happen to you? --- I thought that these people would assault me, and injure me.

Now, at the time that the Police opened fire, on which side of the Police Station were you? --- I was on the western side of the Police Station.

And before the Police opened fire did anything happen near the gate? --- Yes.

What/....

What happened? --- Stones were thrown from the gate, and then the Police opened fire.

And what did you do when the stones were thrown?

--- This thing happened very quickly. Stones were thrown, the Police opened fire, and I then ran into the Police Station.

You ran where? --- Into the Police Station. I just ran to the back of the Police Station, to where the cells are, not into the Police Station.

And did you come out after the firing had stopped?

--- I returned after the firing had stopped.

Now, later on did you attend an identification parade? --- Yes.

Namely on the 19th April at Boksburg? --- Yes.

Was that the only parade you attended or did you attend another one after that? --- That is the only parade I attended.

And where were you? Were you able to see and hear what was going on whilst the parade was being constituted? --- No, I could not see what was going on and I could not hear what was said.

And when you were brought to the parade, what were you asked to do? --- I was asked to point out the persons who were present on that day when people were shot at the Police Station.

And were you able to point out anybody? --- Yes.

Can you remember how many people you pointed out?

--- Yes, I can remember.

And will you be able to point out the persons if they are here today, who were on that parade? --- Yes, if they are here I can point them out.

May the witness stand down Sir to see if there are any persons who are here?

BY THE COURT: Yes.

By/....

BY THE WITNESS:

Accused No. 8, accused No. 4, accused No. 3.

That is all, Your Worship.

BY THE COURT:

Nos, 8, 4 and 3, those three? --- Yes, Your Worship.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Now, whereabouts on the 21st March, i.e. the day of the shooting, did you see No. 4 accused? --- I saw accused No. 4 at the Police Station.

On which side was that? --- He was on the western side of the Police Station.

Approximately what time was it more or less? --- Accused No. 4 arrived at the same time with accused No. 8.

And did you see what he did there? --- Accused No. 4 was doing the same that accused No. 8 was doing.

BY THE COURT:

You said that in Seeiso Street you saw accused No. 8 and also others whom you knew? --- That is correct.

That is on the way to your work in the morning. Are any of those others here in Court? --- No Your Worship, I do not see them here in Court.

CROSS-EXAMINED BY MR. UNTERHALTER:

I take it that when you left your home, in addition to having no trouble with the group whom you saw on your way, you also had no difficulty in making your way to the Police station, you were not prevented by anyone? --- That is correct.

Now, the crowd that assembled at the Police Station, you say inspired fear in you? --- That is correct.

I take it you were interested to see everything that was going on? --- Yes, I wanted to see what was going on.

Were you present when Sergeant Grobler arrived? ---

No/....

No, I did not see him. Your Worship, I work with him at Sharpeville Police Station, but when he arrived I did not see him.

Were you not aware of his having come to the station? --- No.

Did you have fear all the time until the shooting commenced? --- No Your Worship, I got frightened before the shooting commenced, because groups kept on coming there and the crowd was getting larger and larger and larger.

Well, let us put it this way. You arrived at the station at about eight o'clock? --- Yes.

When did you begin to feel afraid, approximately? --- I started to become frightened I think it was about something to twelve.

Before that you were not frightened at all? --- No.

There was nothing in the behaviour of the crowd up till then to cause you to fear? --- Yes.

Now, after twelve I take it the crowd was much bigger? --- Yes.

And was it the size of the crowd that created this fear in you? --- Yes, the size of the crowd created this fear in me, and I saw that the crowd was now becoming more active, and they were becoming more clever, and they were becoming wild.

Now, are you describing the crowd generally, or are you merely indicating the behaviour of certain individuals, isolated individuals in the crowd? --- The crowd as a whole.

Are you quite certain about that? --- Yes, I am certain about it.

Were you paying much attention to what was going on on the western side? --- Yes.

Nearby/....

Nearby the big gate through which the vehicles come into the grass area there? --- Yes.

Did you notice the arrival of Saracens? ---Yes, I saw them when they arrived.

Did this not perhaps reassure you and cause your fear to subside a little? --- Well Your Worship, I would say I was just inbetween at the time. I was still frightened and I had a little hope.

But your fear started to subside somewhat, it came down a little bit? --- Yes.

Did you notice the arrival of about 70 I think it was, reinforcements in the shape of European Policemen? --- Yes, I saw them.

And did this also give you a little more confidence perhaps? --- No, I was just inbetween.

The same as with the arrival of the Saracens? --- Yes.

Is it possible that you are rather a timid person by nature? --- Well, Your Worship.... Yes, I think so.

I want to show you a photograph of the crowd at a certain period, but before I do so I want to ask were you present when certain motor-cars drove into the Police Station grounds?---Well, I saw motor-cars there, flying squads, if Counsel is referring to those?

Well, one of the cars in the photograph that I shall show you has got a radio mast at the back of it - I don't say it is the only one - but that was one of the cars that arrived. Did you see such a car coming? --- I did not take notice of it.

Did you perhaps notice a man in overalls guiding a car in through the gateway? --- No, I did not see that.

You were certainly there at roundabout one o'clock

though/

though, were you not, i.e. at the gate? --- I was there at that time.

Would you please look at Exhibit 45? Do you remember a crowd similar to that? --- I remember seeing a crowd.

Do you perhaps remember the incident of that particular car driving through and people around it? --- At the time I was not standing in one place, because I was moving from that place where I was and I went to the front to the small gate, and back again.

Well, you don't remember that specific incident? --- No, I do not.

Would you say the behaviour of the crowd as it appears from that photograph is a fair description of the crowd as you have given it in your evidence here today? --- Yes, nearly like that.

You see, I want to put it to you that that is not a wild looking crowd? It is a rather curious crowd, certainly as far as the people in front near the fence are concerned. What do you say to that? --- When I saw this crowd, this crowd/well was getting wild.

Were you aware that a couple of African Constables had been sent out of the Police Station grounds with a message? --- No, I did not notice that.

Did you never at any time see uniformed African Constables leave the Police Station grounds, pass through the crowd, and later return through the crowd to the Police Station grounds? --- No, I do not remember. I did not see them.

Would you say that in your opinion the crowd was too dangerous to permit a Policeman in uniform passing safely through the crowd and returning? --- If they wanted to they would/....

would have allowed him to pass through.

Perhaps you have not understood my question.

Would you say that from your estimate of the mood of the crowd it was too dangerous for uniformed African Policemen to leave the grounds of the Police Station, go through the crowd, and then come back through the crowd to the station? Was it too dangerous for people to do that? --- It could be dangerous, and I would say at the same time no.

Well now if you had been a man in uniform, and one of the seniors had asked you to take a message from the station at say about eleven o'clock, through the crowd, and you knew that you would have to pass through that crowd and come back again a little while later, would you have accepted that, assuming for a moment that you had an option not to obey your senior officer? --- Yes, I would do it.

Now, in the light of the fear that you had of the crowd, how do you explain that? --- With the Police laws or regulations, if you are sent by a senior officer, whether it is dangerous or not, you must go.

Now, I realise that, and that is why I have said to you assuming that you had an option in the matter, and if it was a question of merely asking you to volunteer, without ordering you to go, would you have gone? --- Yes, I would still go.

Well, I am putting it to you that you would have gone because in fact that crowd was not as dangerous as you are seeking to paint it? --- Well Your Worship, in the way I saw this crowd, even if we are sent, I would go, even if I was afraid.

Did you notice any Europeans moving around in that crowd at any time before the shooting? --- No, I did not see any Europeans.

You/....

...though, were you not, I.e. I
...that time.
...come into the crowd
...Would you please
...I remember a crowd similar to
...I saw them
...crowd.
...Do you perhaps
...particular car driving through
...I was just
...the time I was not standing
...I had a
...from that place where I was
...safe, and back again.
...Well, you don't
...No, I do not
...Would you say the
...Yes, I saw
...appears from that photograph
...if you give it
...No, I was
...Yes, nearly like that.
...The name as with
...You see, I want
...Yes
...a wild looking crowd
...is it possible
...as far as the people in front
...of nature? --- Well, your
...What do you say to that?
...I want to know
...crowd, I was getting wild
...certainly, but
...Were you aware
...present when
...had been sent to the
...grounds? --- Well, I saw
...No, I did not notice the
...Council is referring to
...Did you never
...Well, one of the
...constables leave the Police
...shall show you how
...crowd, and later return
...don't say it's
...station grounds? --- No, I
...that arrived.
...them.
...I take notice of it.
...Would you say
...Did you
...see dangerous to permit
...a car in through
...through the crowd and return
...You were

You did not notice any photographers, people with cameras perhaps, moving around in that crowd? --- I did not see them.

Now, was it only at about ten or eleven that you noticed the crowds arriving at the station? --- Yes.

Are you fairly accurate as to times? --- No, I think it was somewhere about that time.

It would not have been at nine o'clock that the crowds started to assemble? --- It was after nine.

Are you definite about that? --- That is just an estimation Your Worship; I think so.

At half past eight there would not have been any crowds there? --- At half past eight there were no people there.

And about nine o'clock also there would be no people there? --- There were no people at nine either.

You see, it may be that your memory is playing you tricks after all these months. You did give evidence at the Commission of Inquiry, did you not? --- That is correct.

You see, you say at page 766: "Omtrent half-neege, nege-uur, daardie oggend het daar 'n klompie naturelle by die Polisiestatie aangekom". Now, were you mistaken then or are you mistaken now? --- Yes, now I remember. I think I must have made a mistake. I have made a mistake.

You don't think that perhaps having made a mistake in regard to time, you have also perhaps rather over-exaggerated the position as regards the crowd and its mood? --- I am not exaggerating. When I think I think it was roundabout then, about ten, ten and eleven.

No, what I am putting to you is this. It is a small detail, this question of the time. I am not criticising you for it, but if you are mistaken about things like that are you not perhaps mistaken in the picture you have painted of this wild/....

wild crowd as you call it? --- No, I am not making a mistake.

Have a look at the picture again, Exhibit 45? Now, if you are quite fair you will agree that that is not a picture of a wild crowd, is it not so? --- I think maybe that this photograph was taken afterwards, after the crowd had cooled down, but at the time when I saw them for the first time then they were raising their hands high in the air; they were very wild.

Now, when you say after the crowd had cooled down, are you suggesting that there was a certain time when the crowd was wild, and then just before the shooting or a certain time before the shooting, they became calmer? --- The crowd would shout for a few seconds and then keep quiet, and then after a few seconds they would start shouting again, just like that.

You see certain of the evidence that has been given in this Court, is to the effect that it was only when the arrest or removal of certain Africans took place, that the crowd to show any resentment at all. Now, would you agree with that? --- Yes Your Worship, I agree with that, because at the time when the others were arrested the crowd became more wild.

But before that they were just a good-humoured crowd, shouting their slogans, and apparently waiting for something? Would you agree with that? --- Yes, they were shouting.

No, you must answer my question please. I have put two points to you in the question. I am suggesting that the crowd was a reasonably good-humoured crowd before these arrests took place. Would you please comment on that? --- Just before the arrest they were shouting, and they then kept quiet, and then after some time they would start shouting again.

In/....

In a good-humoured way? --- You could see that these people, even if they were shouting, were hurt, their feelings were hurt.

Did any of them make any jokes or any jests, any remarks that caused laughter and smiles from some of the crowd? --- That I do not know. There was a time when all of a sudden I saw them laughing, but I do not know why they were laughing.

So some of them were laughing on occasion? --- Yes.

Now, as far as the second part of my question is concerned, did you gather from any source at all that the crowd were waiting to hear an announcement or some news or something? --- I thought so.

And from that I take it you drew the conclusion that whatever they were going to do, they would not do anything until they had heard this announcement? Would you agree with that? --- Well, I will say so, I will say yes.

Now, you have reported this threat that came from the crowd, "Today, if they do not arrest us, we are going to destroy this Police Station". Now, I take it that that did not come in a chorus from a large number of people, if it was said, but it was said by one person? --- Yes, it was said by one person.

You are not able of course to say who that person was? --- I do not know why they were.

BY THE COURT:

How did the crowd react when he said this? --- Some were jumping high in the air, shouting "Africa! I saw Lethal!"

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

And did others perhaps indicate disapproval? --- That I cannot say.

Now/....

Now, you say that the stone throwing and the shooting occurred almost at the same time? --- Yes.

And it was only the Police who shot? --- Only the Police fired shots.

You heard no shots whatsoever coming from the crowd? --- I did not hear anything.

If such shots had been fired, say two shots had been fired from the crowd on the western side beyond the fence, could you have heard it? --- Yes, if they were fired I would have heard them.

Now, you ran away towards the cells. Did you do this because you were frightened of an attack by the crowd, or you were frightened of being shot yourself by the Police? --- I was running away for two reasons, because I was in civilian clothing, and I was running away from the crowd, and I was running away from the Police because they might shoot me as well, if the crowd had jumped over the fence and we then just mingled together there.

And is it not really from that point that your fear started, when this terrible shooting took place, and you thought that you ^{might} be mixed up in the confusion with others? --- Yes, that is correct.

Did you see certain people being arrested just before the shooting? --- Yes, I saw them being arrested.

Now, was it just immediately before the shooting, or would it have been five or ten minutes before? --- It was a very short time. It could have been about three minutes.

And do you say these men were arrested while inside the Police grounds? --- They were arrested inside the Police grounds.

You did not see any person just at the gate forming part/....

Now, you say that the stone throwing and the shooting occurred almost at the same time? --- Yes.

And it was only the Police who shot? --- Only the Police fired shots.

You heard no shots whatsoever coming from the crowd? --- I did not hear anything.

If such shots had been fired, say two shots had been fired from the crowd on the western side beyond the fence, could you have heard it? ---Yes, if they were fired I would have heard them.

Now, you ran away towards the cells. Did you do this because you were frightened of an attack by the crowd, or you were frightened of being shot yourself by the Police?--- I was running away for two reasons, because I was in civilian clothing, and I was running away from the crowd, and I was running away from the Police because they might shoot me as well, if the crowd had jumped over the fence and we then just mingled together there.

And is it not really from that point that your fear started, when this terrible shooting took place, and you thought that you ^{might} be mixed up in the confusion with others? --- Yes, that is correct.

Did you see certain people being arrested just before the shooting? --- Yes, I saw them being arrested.

Now, was it just immediately before the shooting, or would it have been five or ten minutes before? --- It was a very short time. It could have been about three minutes.

And do you say these men were arrested while inside the Police grounds? --- They were arrested inside the Police grounds.

You did not see any person just at the gate forming part/....

IN THE COURT

CROSS-EXAMINATION BY

part of a tug-of-war between Europeans and the African crowd on the other side? --- I did not notice that.

COURT ADJOURNS.

COURT RESUMES:

SIDWELL KELE, under his former oath, continues:

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

As far as the throwing of the stones that you say you observed are concerned, what caused this in your opinion? --- I do not know. I think they were throwing the stones at us.

You can give no reason for it? --- I do not know.

You don't think that it might have been caused by the crowd seeing certain people arrested in front of them?

--- It is possible.

In fact the stone-throwing took place roundabout the time of the arrests, if not precisely at that time? --- Yes, somewhere about then.

Thank you, Your Worship.

CROSS-EXAMINED BY ACCUSED NO. 1: No questions.

CROSS-EXAMINED BY ACCUSED NO. 3: No questions.

CROSS-EXAMINED BY ACCUSED NO. 4:

Now, you have told the Court that some of these people, some of the crowd, had sticks, and they were raising their hands. Now, in Exhibit 45, can you see any sticks there?

--- In the exhibit there are no sticks.

BY THE COURT:

Are you quite sure of that? --- I am quite sure

Your/....

Your Worship. In the photograph, Exhibit 45, you cannot see all the hands there. Some of them have put their hands behind their backs.

CROSS-EXAMINATION BY ACCUSED NO. 4 CONTINUED:

As you have already told the Court that this crowd was becoming wild and that they had sticks, and that they could cause some trouble, how could they trouble because there are no sticks there in the exhibit itself? --- In the photograph, exhibit 45, sticks are not visible. It may be that there are sticks amongst the crowd there.

At the time when you saw me at the charge office, where was I standing? --- You were standing in front of the crowd that was standing on the western side of the Police Station.

You have already told the Court that you saw me being arrested there. Who arrested me? --- You were arrested by European Constables. I do not know them.

BY THE COURT:

Do you mean Constables or Policemen? --- Constables, Your Worship.

CROSS-EXAMINATION BY ACCUSED NO. 4 CONTINUED:

I have no further questions to ask this witness.

CROSS-EXAMINED BY ACCUSED NO. 8:

You have told the Court that you were from your house. Now, I want to know from your house, where did you go to first? --- From my house I turned into Secise Street and walked to the Police Station. I was on a pedal cycle.

You got to the Police Station? --- Yes.

You have told the Court that you saw me. Where did you see me for the first time? --- When I saw you for the first time I saw you near the bus stop, which is near the dairy/....

lairy, when this crowd was following you.

About what time was it roughly? --- About 7.45 a.m.

You were on your way to the Police Station? --- Yes, I was on my way to the Police Station.

Constable, I do not understand you so well, but I am putting it to you that at that time I was not there, i.e. at that place where you say you saw me for the first time? --- I saw you there.

You have told the Court that you estimated this crowd at about 300? --- Yes.

Do you know Zwane Street? --- I know Zwane Street.

I do not understand you, because you have told the Court that you again saw me in Zwane Street. Now, from that place where you saw me for the first time, going to Zwane Street, where was I walking in the street? --- You were walking in the street, in the middle of the street.

BY THE COURT:

In which street was that? --- In Zwane Street.

But I think the accused wants to know how he could have got from Seeiso Street into Zwane Street? --- That I do not know, because I saw him there and thereafter I don't know how he got to Zwane Street.

There were several ways in which he could have done so? --- Yes, there are several ways.

CROSS-EXAMINATION BY ACCUSED NO. 8 CONTINUED:

According to what you have said to the Court, this group of 300 people, I was in the company of this group all the time? They were with me? --- Yes.

I do not understand you so well. Do you mean to tell the Court that you last saw this crowd in Seeiso Street? --- That is correct.

At/....

At the time when I got to Zwane Street, did you see me? --- I saw you at the time when you were approaching the Police Station with this crowd.

I would just like to see an exhibit, the photograph; I want to see the street. --- (Exhibit No. 2 is handed to the accused No. 8).

BY THE INTERPRETER:

Your Worship, the witness shows that when he saw the accused in Zwane Street he was opposite the clinic.

BY THE COURT:

He may as well mark the place with the figure 8? --- Yes, Your Worship. (Witness marks the spot on the plan with the figure 8).

That is a spot in Zwane Street to the west of the Police Station.

CROSS-EXAMINATION BY ACCUSED NO. 8 CONTINUED:

At the time when you saw me there, in which direction was I walking, east or west? --- You were walking south, facing the Police Station.

And this crowd? ---Yes, the crowd was following you.

So do I now understand you to say that I was not actually in Zwane Street, but I was from Seeiso Street? --- Yes, it is possible.

I asked you if you knew Zwane Street and you said yes, but in the manner in which you are showing where I was in Zwane Street, it seems to me I was not there at the time? --- No, you were there.

You should have told the Court that you only saw me there, but not knowing where I was coming from? --- That is correct.

Now/....

Now, why did you tell the Court that you saw me walking in Zwane Street? --- I think that is a mistake that I have made.

I have no further questions to ask.

CROSS-EXAMINED BY ACCUSED NO. 38: No questions.

CROSS-EXAMINED BY ACCUSED NO. 39: No questions.

RE-EXAMINED BY THE PUBLIC PROSECUTOR:

Do I understand you correctly now that you have corrected yourself, and that the sum total of your correction is that you did not see No. 8 accused in Zwane Street at all on the 21st March? --- I did not see him in Zwane Street at all.

Now, how did you know that these people whom you have described as European Constables were in fact persons with the rank of Constable? --- I heard afterwards that they were Constables, because they were dressed in civilian clothing.

BY THE COURT:

You did not mishear the word "Constables" did you?
--- I did not mishear it, Your Worship.

You can tell him that the evidence is that they were Colonels and not Constables!

RE-EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Now, will you have a look at Exhibit 46? --- Yes.

Do you see that main black pole just near the Police fence, sticking right up through the photograph? --- I see.

And can you orientate yourself, can you find the level of the roof that runs through the pole and away to the left of it? It is just about where your finger is now. Do you see any little mark on the photograph there? --- Yes, I see it.

What does it look like? --- I see a hand.

And has the hand got anything in it? --- This hand is carrying something like a stick or a switch.

It is very difficult to see a white stick against the white background of the sky? It is a black and white photograph, is it not? --- Yes, it is difficult.

Now, have a look carefully and tell me whether perhaps you can see any others? --- Just a little to the left of the pole I can see another stick on the right.

BY THE COURT:

Just show me those two points on the exhibit? ---

Yes. (Witness indicates the points to the Court).

Well, could not the one just to the right of that pole be the top of an umbrella? Just look at it. There is an umbrella a little way away, a little thing about exactly the same size. --- An umbrella, if it.....

No, the one just to the right of the black pole, there is just a short little white thing. Might it not be the top stick of an umbrella sticking out above the sunshade part? Look at the umbrella too further to the right, and you will then see the same sort of thing? --- I see it, Your Worship. It is possible.

Look at Exhibit 2, or let me see Exhibit 2 please, the aerial photograph? Now, you saw accused No. 8 in Seciso Street? --- Yes.

And you saw accused No. 8 again, or not again? --- I saw him again.

You saw him in Seciso Street and then later on again? --- Yes, Your Worship.

Where was he? --- That is at the

At the mark 8 you made on the plan? Is that right? --- Yes, Your Worship.

Now, let me see that please? Well, that is in Zwane Street, just to the south of the clinic? Is that right?

--- That is correct.

But I understood you to say that you did not see him in Zwane Street at all.

BY THE COURT : TO THE PUBLIC PROSECUTOR:

Mr. Prosecutor, did you look at this mark that he made here when you put that question? --- No, I did not, Your Worship.

It is a pity. His 8 is very clearly in Zwane Street.

BY THE COURT : TO THE WITNESS:

And if you told the Prosecutor just now that you never saw him in Zwane Street, is that correct or not? --- Your Worship, I think I must have misunderstood the question.

I see. You did see him where you made this figure 8, which by the way you made in red ink? Is that right? --- That is correct, Your Worship.

Yes, thank you, you may stand down.

DEUR DIE PUBLIEKE AANKLAER:

Edelagbare, voordat die volgende getuie die eed aflê mag ek aansoek doen vir die wysiging van my klagstaat?

DEUR DIE HOF:

Ja?

BY THE PUBLIC PROSECUTOR:

I am applying, Your Worship, for the amendment of my charge sheet to count 1, on page 5, by the insertion of the name E.H. Fouche after the words "A.A. Struwig", and before the words "certain wounds". I am referring to the public violence/....

violence charge. It is paragraph 17.

BY THE COURT:

It is page 11 of the record as you numbered the pages long ago, and it is page 5 of a certain typed charge sheet.

BY THE PUBLIC PROSECUTOR:

Then there is one further amendment Sir. It is on page 8 of the charge sheet, i.e. as we have numbered it. It is paragraph 4, by the deletion of the name "one Pogrund" Sir, and then again later on in the same paragraph there appear the words "then and there and thereby to the aforesaid Pogrund", and where Pogrund appears.....

BY THE COURT:

Yes, wherever Pogrund appears?

BY THE PUBLIC PROSECUTOR:

Yes, wherever Pogrund appears Sir, we will delete it, if Your Worship pleases.

The Defence has no objection to the Court removing from the charge sheet an allegation that the accused did wrongfully and unlawfully and maliciously assault one Pogrund.

BY THE COURT:

Now, that deletion does not prejudice them because it reduces the number of details of the charges against them.

The Defence has no objection to the first application for an amendment being granted.

BY THE COURT:

In the circumstances of this case I am going to allow the amendment to the charge. I will insert the words "E.H. Fouche" after the name "A.A. Strawig".

Now, explain to the accused Mr. Interpreter, that

we/....

we will listen to Constable Fouche's evidence now. They may cross-examine him now, but if at a later stage due to his name being inserted at this late stage, if they want to re-call him, they need just apply to the Court and the Court will go into the question of whether he can be recalled or not.

DIE PUBLIEKE AANKIAER ROEP:

ERNEST HENDRIK FOUCHE, beëdig, verklaar:

VERHOOR DEUR DIE PUBLIEKE AANKIAER:

U is 'n Konstabel in diens van die Suid-Afrikaanse Polisie gestasioneer te Vereeniging? --- Ek is.

Hoe lank Polisie diens het u mr. Fouche? --- Twintig jaar en agt maande.

En hoe lank is u op Vereeniging gestasioneer? --- Ek is min of meer vir die afgelope elf maande hier.

En op die 20ste Maart hierdie jaar, d.w.s. die dag voor die moeilikheid by die Polisie stasie, het u na Sharpeville naturesdorp gegaan met 'n Polisie voertuig? --- Ek het.

Was dit 'n Polisie vangwa soos ons dit noem? --- Ja.

Kan u die registrasienommer onthou van die vangwa? --- Ongelukkig nie.

En toe voordat u die lokasie binnegegaan het, was daar enige skade aan die voertuig? --- Daar was geen skade aan die voertuig nie.

En gedurende die nag het u op patrollies rondgery met hierdie voertuig? --- Ja.

Was enige skade aan die voertuig verrig gedurende die aand? --- Daar was.

Op watter manier was die skade verrig? --- Terwyl ek bestuur het was tweekeer met klippe op die vangwa gegooi.
Deur/....

Deur wie of deur watter soort persone is die klippe gegooi? --- Dit was gegooi deur die Bantees.

En was daar enige skade aan die voertuig? --- Ja, aan die regterdeur aan my kant was 'n deuk, asook skuins regs bo die vangwa 'n deuk.

Is dit die enigste skade wat daardie aand opgedoen is aan u voertuig? --- In my teenwoordigheid.

Weet u hoeveel dit gekos het om die skade te herstel?

--- Nee.

En die volgende dag, d.w.s. die 21ste Maart, het u dieselfde voertuig bestuur? --- Nee, ek het toe nie bestuur nie.

Was u by Sharpeville Polisiestasie gewees gedurende die dag en tydens die Polisie-skieterij? --- Ja, ek was.

Hee laat het u aangekom by Shappeville Polisiestasie in die oggend? --- Ongeveer 11 v.m.

Was dit saam met mr. Heyl? --- Saam met Hoofkonstabel Heyl.

En net kort voor die skietery plaasgevind het, aan watter kant van die Polisiestasie was u? --- Ek was daar hier by die groot hek, as jy die perseel van agter binnegaan, aan die linkerkant.

DEUR DIE HOF:

Dit is die groot hek waar die voertuie ingaan? --- Ja.

VERHOOR DEUR DIE PUBLIEKE AANKLAER VERVOLG:

Bewysstuk 13 sal u miskien help. U sal sien dat daardie groot hek is aan die westekant. Aan watter kant was u nou? Aan die noordekant van die westekant, of aan die suidekant van die westekant? --- Ja, ek was aan die westekant.

Ja maar noord van die hek of suid van die hek, of regoor/....

regoor die hek? --- Noord van die hek.

DEUR DIE HOF:

Noord van die hek is na die bokant van die portret toe, en suid van die hek is na die onderkant toe. --- Ja, ons was noord van die hek, Edelagbare.

Noord van waar daardie klompie manne daar staan?
--- Ja, Edelagbare.

VERHOOR DEUR DIE PUBLIEKE AANKLAER VERVOLG:

Omtrent hoe ver van die hek af? --- Ongeveer 7 tree.

En was u gewapen? Het u enige Polisiewapens by u gehad? --- Ja, ek het.

Wat het u gehad? --- Ek het my .38 rewolwer by my gehad.

En net voor die Polisiegevuur het was daar enige gebeure daar by die hek wat u gesien het? --- Ja.

Wat het gebeur daar? --- Daar was 'n klipgoeiery gewees.

Was u deur enige van die klippe getref? --- Ja.

Waar was u getref? --- Aan my regterknie.

Kan u die Hof enige idee gee van die grootte van die klip wat u getref het? --- Ongeveer hierdie tipe grootte.

DEUR DIE HOF:

Jy wys vir my omtrent 'n vuis grootte? --- So groot as 'n tennisbal ja, omtrent 'n vuis grootte.

VERHOOR DEUR DIE PUBLIEKE AANKLAER VERVOLG:

Het u enige pyn gevoel toe die klip u getref het?
--- Ja, ek het.

U sê u het pyn gevoel toe die klip u getref het?
--- Ja.

En het dit enige oop wonde veroorsaak? --- Nee.

En kneusings? --- Nee.

Nou, het u gesien vanwaar hierdie besondere klip
geken/....

gekom het? --- Nae Edelagbare, van die skare reg voor my.

Het u gesien of enige besondere persoon die besondere klip gegooi het? --- Dit was 'n bietjie moeilik om dit te kon sien. Dit het gelyktydig gebeur.

DEUR DIE HOF:

Met ander woorde, jy kon nie sien wie dit gegooi het nie? --- Nee.

VERHOOR DEUR DIE PUBLIEKE AANKLAER VERVOLG:

Sal u in staat wees om enige persone uit te wys wie u daar gesien het en wie klippe gegooi het? --- Ja.

Mag die getuie afstaan Edelagbare?

DEUR DIE HOF:

Ja. As daar van die beskuldigdes is wat daar was sal jy hulle net gaan uitwys asseblief? --- Ekskuus Edelagbare, wat daar was of wat gegooi het?

DEUR DIE PUBLIEKE AANKLAER:

My vraag is wat gegooi het.

DEUR DIE HOF:

O, persone wie jy gesien het wat gegooi het. --- (Getuie wys nr. 30 uit).

Is dit die enigste een wat jy kan uitwys? --- Ja.

VERHOOR DEUR DIE PUBLIEKE AANKLAER VERVOLG:

Nou, hoe ver was u vanaf beskuldigde nr. 30? --- Ongeveer 7 tree. Sy het teen die draad voor gestaan.

Is daar enige rede hoekom u aandag in besonder op haar gevestig is? --- Ek het haar gesien met 'n klip in haar hand ook.

Ja maar hoekom was u aandag op haar gespits? --- Die manier wat sy geskree het „Afrika!“ en „Vandag sal die bloed loop!“

Waar het sy gestaan? Was sy in die eerste ry wat teen die draad gestaan het, of in die tweede of in die derde

of/....

of in die vierde ry? --- Sy was heel voor, die eerste ry.

En was daar enigiets tussen u en haar wat u uitsig kon versper het? --- Nee.

Nou, wat ek wil probeer vasstel is was sy reg voor u of skuins na links of regs? --- Effens skuins na regs.

En ek dink na die klipgoolery het die Polisie geskiet? --- Ja, feitlik dieselfde moment, terwyl die klipgoolery aan die gang was.

Voordat die Polisie geskiet het, het u enige ander skote gehoor? --- Ja.

Hoeveel skote? --- Twee skote.

Van wie het hulle gekom? --- Dit was duidelik vir my dat hulle het van die skare afgekem.

Nou, op die 19de Mei hierdie jaar, by die nuwe tronk wat hulle besig is om te bou, het u 'n uitkenningsparade bygewoon? --- Op die 19de April.

Die 19de April? --- Ja, April.

By Boksburg? --- By Boksburg tronk.

Het u 'n uitkenningsparade bygewoon? --- Ek het.

Kon u sien of hoor wat aangegaan het toe die parade opgestel is? --- Nee.

En toe is u na die parade gebring deur iemand? --- Ja.

En ek dink daar was 'n Hoofkonstabel in bevel van die parade? --- Ja.

En watter vraag was toe aan u gestel? --- Dit was aan my gesê ek moet nou op en af loop by die skare of by die parade, om te kyk of ek enige persoon aldaar sien wie deelgeneem het aan die opstand te Sharpeville.

En het u enige persoon uitgewys? --- Ja, ek het.

Wie? --- Die beskuldigde wie ek reeds uitgewys het.

Nr. 30? --- Ja.

Het/....

Het u enige moeite gehad om haar te sien daar tussen die mense, die lede van die parade? ---Nee, ek het geen moeite gehad nie.

Omtrent hoeveel persone was op daardie parade? Kan u onthou? --- Ongeveer twintig sal ek sê.

Was hulle almal vrouens? --- Almal was vrouens.

En hoe het hulle vergelyk sover as ouderdom, hoogte en gelaatstrekke betref? --- Volgens die ouderdom ens. het hulle blykbaar baie naby aan mekaar gepas.

CROSS-EXAMINED BY MR. UNTERHALTER:

Constable Fouche, you remember clearly today the events of eight months ago? --- Ek veronderstel ek onthou dit goed.

You have described correctly to the best of your ability everything that happened? ---Ja.

And in particular where you stood and what you saw opposite you? --- Ja.

In those Police grounds? ---Ja.

What time did you come on duty the previous night? --- Ek het om kwart-voor-tien die vorige aand, d.w.s. die aand van die 20ste Maart, op 'n Sondagaand, aan diens gekom.

Do I understand that you remained on duty the whole of that night patrolling the location? --- Dit is korrek.

And then in the early hours of the morning were you still on duty in the location? --- Ek was nog steeds op diens.

And as part of those duties did you then report, without any break, to the Police Station at Sharpeville? ---Ja.

Were you brought on duty the night before as an emergency measure? --- Nee.

In the ordinary course if you came on duty at ten o'clock when would you have been relieved? --- 6 V.m. die volgende/....

volgende oggend.

Which means that your normal shift is an eight hour shift? --- Dit is korrek.

You went straight on and at what time did you arrive at the Police Station? --- Te Sharpeville Polisiestasie?

Yes? --- Daar het ek ongeveer 10 n.m. aangekom.

That is the previous night? --- Die vorige nag ja.

No, I am talking of the following morning now. At what time did you come to the Police Station? --- Ongeveer 11 uur die volgende oggend.

So by that time you had already done five hours overtime? --- Ja, dit is reg.

I take it that your experiences on the night of the 20th March were not pleasant ones? --- Dit was taamlik oproerig gewees sal ek sê.

You were under strain I take it? --- Nee, ek sal nie so sê. Ek het nog heeltemal geskik gevoel.

Then can I assume that you were in no dangerous positions the night before? Can I assume then that you were in no dangerous situations the night before? --- Nee, ek sal nie dit sê nie. Ek was herhaalde kere die nag in gevaar sal ek sê.

Do I understand you to say that although you were in dangerous situations, they did not cause you any strain? --- Ek het gesê ek het nie moeg gevoel as gevolg daarvan nie.

You had to concentrate however? Is that correct? --- Jy moes versigtig gehandel het natuurlik.

You had to be constantly on the alert? --- Ja, jy moes versigtig wees anders word jy.....

DEUR DIE HOF:

Die vraag is of jy heeldag moes wakker wees? --- Ja.

Cross-examination/....

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

And it certainly was not the same situation as sitting back in a charge office in the calm of a quiet afternoon with nothing particularly to disturb you? Is that correct? --- Nee, natuurlik nie.

At 6 o'clock the next morning were you rather tired? --- Nee, ek was nog nie juis moeg nie.

During the course of the morning did you begin to feel something of the strain of the previous night? --- Nee.

Now, as far as this car is concerned. You have described that it was undamaged before you went on your round at 10 o'clock on the night of the 20th March? --- Ja.

Ordinarily do you do foot patrols or do you do patrols by vehicle? --- Ek patrolleer per vangwa.

Do you have any special vehicle that is given to you, or do you take any vehicle that is allotted to you for any particular duty? --- Ons het net 'n voertuig wat vir patroleerwag en klagtes gebruik word. Ons neem nie enige voertuig wat voor kom nie.

Ordinarily how many vehicles would be at your disposal for use? --- ^Net een.

Who drives this vehicle usually? --- Konstabel Grove is eintlik die bestuurder van die genoemde vangwa wat ek die nag bestuur het.

And your job in the ordinary course of events is to get into this vehicle with whoever is accompanying you, and to do a patrol? Is that right? --- Ek bestuur gewoonlik self.

Well, let me put it to you another way. Your duty is either to drive this vehicle in the course of your patrols, or to accompany somebody else who is driving it? --- Ja, dit

is/....

is korrek.

And the attention that you would pay to your work is to look around and see that everything is in order as you pass by with your vehicle? --- Ja, ek sal so sê.

Now, I put it to you Constable, that in the ordinary course you don't pay special attention to the vehicle, you are not a mechanic, is that not so? --- Ja, beslis voor ek op diens gaan inspekteer ek hom om te kyk of daar krappe of deuke aan hom is. Dit is 'n groot deel van ons werk om dit te doen.

Do I understand then that this is a routine procedure with you? Every time you go out on patrol you check to see if there are any scratches or dent marks on your vehicle? --- Nie elke keer as jy op patrollie gaan nie. Elke keer as jy op diens kom en jy ontvang die vangwa by die vorige man, is dit jou plig om hom te "check" om te kyk of daar skrape en deuke is. Indien soiets gevind word moet ek onmiddellik 'n rapport opstel daaroor.

Does this mean that the person who hands the vehicle over to you expects you to inspect it? --- Nie dat hy dit verwag nie, ons is verplig om dit te doen, om te kyk of daar nie iets is nie. Elke bestuurder wat oorneem die volgende agt uur gaan die wa na om te kyk of daar enige merke aan hom is. Jy gaan sy olie na, en sy water, en dergelike dinge.

And does he draw your attention to anything, or does he leave it to you to find out? --- Ek kyk self of alles in orde is. Sodra ek iets verkeerd kry dan sal ek vir hom roep en vir hom vra „Man, wat mekaar hier? Wat gaan hier aan?”

From whom did you take over this vehicle? --- Ek kan nie onthou nie.

BY THE COURT:

On the Sunday evening?

By/....

BY MR. UNTERHALTER:

On the Sunday evening.

CROSS-EXAMINATION CONTINUED:

Was he attached to the charge office at Vereeniging station? --- Die vangwa was daar ja.

But the person from whom you took it over, can you at least remember that he was a member of the staff of the Vereeniging Police Station? --- Ja, sekerlik.

Do you remember his rank? --- Nee, ek kan ongelukkig nie presies onthou by wie ek oorgeneem het nie.

Was it a relatively new vehicle that you took over? ---Ja.

What model was it? --- 1959 Model.

And what make? 999 'n Ford.

Do I understand you to say that when you took this vehicle over it was in perfect condition? --- Hy het geen deuke en goed gehad nie, en ek was tevrede dat hy reg was.

It had no dents in it. Did it have any scratches on it? --- Ek het geen skrape gesien aan hom nie.

Did you examine it very carefully Constable? --- Ja, ek het dit goed nagegaan.

And whereabouts did you examine it? ---In die Polisiestasie perseel.

What time of the night was it that you examined it? --- Ongeveer twintig na kwart-voor-tien die aand.

And what was the lighting conditions at that time, to enable you to carry out this examination? --- Dit was donker, maar daar is helder groot ligte wat aangeskakel is waar ons paradeer. Ek het ook my eie flitslig as ek ^{om} hom gaan om te kyk daarna.

In view of its apparently good condition, I take it that it had not recently been involved in any incidents where

it had been attacked? --- Ja, ek sou so'sê. Ek stem saam daarmee.

Now, when did you discover that there were dents and scratches on this vehicle? --- Terwyl ek bestuur het het ek gehoor hoe gooi hulle my. Ek het dieskote teen die vangwa gehoor, en ek het teruggesit vir my kop, ek was bang my kop kry die hou.

Are those the only facts from which you say that this vehicle was dented? --- Dit is wat met my gebeur het, altwee gevalle waar hulle gegooi het op my vangwa.

Constable, you must listen carefully to the question. I will put it to you again. Are those the only facts from which you say that this vehicle was dented, i.e. the fact that you were driving it and ^{you} heard something banging it? Are those the only facts? --- Ja, dit is al twee. Terwyl ek haar bestuur het, is dit wat gebeur het.

Now, where were you when this attack was made on your vehicle? --- Ek het in die lokasie in 'n straat gekry. Ek ken nie hulle name nie, Edelaagbare.

Were you driving about in the side-streets? --- Ja.

And about how long after you had commenced your patrol did this incident occur? --- Dit is nou baie moeilik vir my om te sê. Dit was oor twaalf die nag gewees.

I am not sure that I understood what you said about the damage correctly. You were talking about something to the right front. Would you just go over it again? --- Ja, aan die regterdeur, die kant waar ek gesit en bestuur het, aan die regterkant, die regterdeur, was 'n deuk in.

Anything else? --- En bo op die dak meer aan die regterkant wasook 'n deuk.

Did these two bangs, or whatever it is that you heard, occur at more or less the same time, or at different times/....

times during the night? --- Dit het na mekaar gebeur.

And those were the only two that you heard throughout the whole of your patrol? --- Die tyd wat ek bestuur het was dit die enigste twee skote op die vangwa.

And you drove from ten at night until six the next morning? --- Nee, ek het nie tot 6 uur bestuur nie.

Until what time Constable? --- Edelagbare, dit is baie moeilik, maar ongeveer twee-, drie-uur die oggend het die wettige bestuurder, Konstabel Greve, opgedaag, en toe was die vangwa - ek is egter nie baie seker van die tyd nie - oorhandig aan hom.

Approximately five hours though? --- Ja, soos ek sê dit is moeilik vir my. Ek het nie gekyk hoe laat ek dit oorhandig het nie.

BY THE COURT:

Mr. Unterhalter, just a moment while I am thinking about the point.

Die twee skote, het dit op dieselfde plek gebeur, of op verskillende plekke in die lokasie? --- Op verskillende plekke, Edelagbare.

Omtrent hoe lank tussenin? --- Enkele minute na mekaar.

Enkele minute na mekaar. Yes, proceed.

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

Now, it was dark in those streets? --- Ja, dit was donker.

And I take it that all you actually perceive - by what I mean became acquainted with through your five senses - was the noise on the ear? That is all that you were aware of?

--- Edelagbare, as ek mag dit so uitdruk. Ons het dikwels bedraai met die vangwa waar waar die klippe gereën het. Toe

het/....

het ek natuurlik Bantoes gesien voor die lig van die vangwa, maar soos ek bestuur het was dit definitief met die enkele skote wat ek gehoor het, die geraas opmy vangwa.

So I take it from what you have just said that you are quite clear that you did not see any particular person throwing these stones? — Nie in die nag nie.

Now, you said in your evidence-in-chief that the stones were thrown by some Africans? — Ja.

Now, of course Constable what you are really saying is is that you are inferring that they must have been thrown by Africans because you were in an African township and passing through African crowds? — Ja.

Now, you say that in due course the lawful driver, was it, took over from you? — Ja, hy het oorgeneem.

You gave the vehicle to him? — Ja.

And he drove off with it? — Ja, ons het nog daar gestaan. Daarna het ons gepatrolleer, dit is korrek.

But in the end you left this vehicle and you went off to the Police Station? — Nee, ek het nie Polisie-stasie toe gegaan toe ek die vangwa oerhandig het nie.

Well, where did you go? — Ons was opgedeel in klompe.

Well, you went off on another patrol and this vehicle went off elsewhere? — Ek het saam met daardie selfde vangwa weer gery.

Until what time? — Dit was tot die volgende oggend toe. Ek het regtig nie gekyk hoe laat ek weer afgeklim het van hom af nie.

But at some time you and this vehicle parted company? — Ja, ons het.

And then the vehicle went off wherever it was going, and you went off on your further duties? — Korrek. Ek was

net/....

met my voet ook gewees.

And you paid no further attention to the vehicle, you were busy with your duties? Is that correct? ---Ja.

Can I therefore assume from what you have said Constable, that your talking about dents having Well, your talking about this car having received dents, is also an inference from what you heard happened to the car, or am I wrong in that? --- Nie wat ek dink nie, wat ek oortuig is het gebeur as gevolg van die klipgoelery.

No Constable, I want to make this clear to you. You said that there were dents in this vehicle on the roof and on the righthand door. Now, do you say that only because you heard a sound against the door and a sound against the roof? --- Ek voel baie oortuig dat dit gegoel is met klippe daardie twee houe, alhoewel ek nie stilgehou het en gaan kyk het met wat dit gegoel was nie. Die deuke in die vangwa toon dat dit die kan wees wat 'n klip sal veroorsaak.

We will come to that in a moment. It might have been that a stick was hit against it. You are assuming it was a stone? --- Nee, ek sal nie sê 'n stek sal dit so slaan nie.

Do you say from the sound of what you heard, it must have been a stone? --- Die boonste goel het stof op gelê. Ek het daarna gekyk daarna. Ek kan sê daarvan aflei dat dit met 'n klip wel gedaan was, die hou bo-op die tent, op die kap.

So that means that in addition to hearing things against the vehicle, you also saw the condition of the vehicle subsequently? ---Ja, daarna, 'n hele tyd daarna het ek wel gekyk hoe my vangwa beskadig is, en toe het ek dit ontdek.

Deur/....

DEUR DIE HOF:

Wanneer was dit wat jy nou werklik gekyk het na die skade? --- Edelagbare, dit was ook in die nag, maar ons het tot stilstand gekom. Toe ek die vangwa oorhandig het het ek vir die kêrel uitgewys die skade daaraan.

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

About what time was that? --- Ek kan regtig nie die tyd sê nie. Dit was toe ons die offisiere, toe ons almal bymekaargekom het daar.

Would it have been morning or still night? --- Nee, dit sal na twaalf middernag gewees het daardie.

But it was still dark? --- Ja, dit was nog donker.

And did you inspect these dents? --- Soes ek sê ekhet toe self gekyk na die skade aan dit, die skade aan die vangwa. Toe het ek dit honderd persent gesien.

And what did you use for light? --- Ek het my flitslig gebruik.

Are you quite sure that the dents that you saw in the light of the torch had not been there previously? --- Ja, ek is baie seker dit was nie daar nie.

Now, when you got to the Police Station what was the size of the crowd? --- As ek mag weet was dit Kyk, ek was die aand ook daar met my aankoms, en die volgende dag....

No, I mean the following day:

DEUR DIE HOF:

Maandag, in die dag? --- Die volgende oggend, d.w.s. die oggend van die 21ste Maart, met my aankoms aldaar was daar 'n enorme klemp Bantees gewees.

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

And were they all standing quietly around the Police station? --- Hulle het nie stilgestaan nie. Hulle het geskree "Afrika!" en 'n vreeslike lawaai of geraas gemaak.

We/....

We have had evidence from other witnesses Constable that there was a great noise going on. You agree with that, do you? ---Ja, ek sal saamstem.

Now, you had a revolver and I believe you fired that revolver during the general shooting? --- Ja, ek het vyf skete daar geskiet

We have heard from others that no command was given to fire. I take it you did not hear that command either? --- Nee, ek het dit nie gehoor nie.

If the command had been given, would you have been able to hear it? --- Edelagbare, ek glo nie ek sou dit hoor nie. Dithang af of die man wat die bevel gegee het miskien by my gestaan het; dan mag dit meentlik wees, maar ek sou dit nie kon hoor as hy ver weg van my af is nie.

Well, if he were say 8 or 10 paces away, would it have been very difficult to hear? ---Ja, meentlik sou ek dit kon hoor as hy 8 tree van my af gestaan het.

But possibly not? --- Dithang af op watter manier die man praat, skree of hee hy deen.

Well, if he would have given the usual sharp command, would you have heard it, or can we assume that even that might have been drowned by the noise? --- Dit mag wees dat ek hom seugheer het as hy miskien die redelike skerp, harde bevel gegee het.

But you seem in some doubt as to whether you might have heard it? Might his voice have been drowned by the noise of the crowd? --- Ja, dit mag ook wees, alhoewel ek dit meentlik ken gehoor het. Dit is moeilik vir my om dit te sê.

The witnesses have said that "daar was 'n geweldige geraas daar"? --- Daar was 'n geraas.

Geweldig? Sal u saamstem? --- Ja, dit was hard, alhoewel jy ken hoor wat die skare skree.

What/....

What you heard from the crowd I take it was a general buzz and the kind of noise that one hears with a crowd at a football match, where there is a sound coming from it? — Ja, party, sees ek alreeds in my getuienis gesê het, het geskree "Afrika!" en e.a. het die een geskree "Vandag sal die bloed loop!"

Now, you have said that you heard somebody use those words "Vandag sal die bloed loop". You are quite sure that you heard those words? — Ja, ek is baie seker.

You see, if there was such a loud noise coming from the crowd, how is it that you can be so certain of having heard these words so clearly? — Ek het baie duidelik dit gehoor, en ook het ek baie duidelik gehoor dat hulle skree "Afrika!"

Now, "Afrika!" as a slogan or a war cry of the African people, is that not so? — Nee, ek het nie kennis of dit hulle kreet is nie.

Well, you have often heard them say it, have you not? — Daarsó ja.

Have you never heard them say it at other meetings? — Nee, not nooit nie.

Would you say when you heard this word "Afrika" coming from the crowd, that it was coming from a chorus of people as you sometimes hear a group of university students saying something together at a rugby match? — Ja, in 'n sekere mate sal ek saamstem, en in 'n sekere mate weet ek nie wat hulle bedoeling was om dit te skree nie.

No, but you did hear them saying it in chorus, the group of people? — Ja, hulle het gelyktydig geskree, asook ongelyktydig.

Most of the time when you heard "Afrika" being shouted, I take it you heard it being shouted in chorus by a whole group of people? — Ja, ek sal daar saamstem.

Would you agree with me that because it was coming
 in chorus, you heard it distinctly coming from many
 voices? --- Ja, ek het dit sonder "chorus" ook gehoor, ek het
 enkel stemme ook gehoor skree, partykeer meer as een,
 partykeer die hele skare.

Mostly did you hear it in chorus? --- Ja, meeste
 alle.

And when you say to His Worship this afternoon
 that you remember hearing this word "Afrika", is it not
 because on most occasions it came across clearly in chorus?
 Ja, ek sal saamstem dat dit in baie gevalle 'n klomp was
 gelyk geskree het.

Now, I put it to you Constable, that although
 you heard the word "Afrika" clearly, you heard it because you
 heard it in chorus, but these particular words that you say
 that you heard "Vandag sal die bloed vloe", were words that
 spoken by one person, must have been drowned by the noise
 of the crowd? What do you say to that? --- Edelagbare, die
 woord het nie aanhoudend "Afrika! Afrika!" geskree nie. Hulle
 het dit geskree en anderrgoed tussenin geskree, maar die
 woord "Vandag sal die bloed loop!" was baie duidelik deur my gehoor
 deur een persoon.

DIE HOF:

Did you hear it through one person? --- Ja, deur een
 persoon geskree.

EXAMINATION BY MR. UNTERHALTER CONTINUED:

Did your hearing these words upset you or make you
 regard this as something out of the ordinary? --- Ja, ek wil
 sê dat dit was, dit het vir my.... ek was half net anges bevange.

It was something a little different to the ordinary
 words that were coming out of the crowd? --- Ja, dit was.

You were all at that stage a little tense? I won't
 say/....

by a little afraid, but you were tense, in the sense that your nerves were beginning to get stretched a bit? --- Ja, maar ek sê ek was half bevange, maar ek was nie dat ek dood bang was nie.

And this represented a sort of danger signal to you did it not? --- Ek het dit nog redelik kalm opgevat. Ek sal nie kan sê of dit ... dat ek bang was nie.

No, I don't mean to you personally, but it was a danger signal as far as you were concerned as to what this crowd was about? --- Ja, vermaamlik toe sy sê "Vandag sal die bloed loop!" Toe meen ek daar gaan, haar doel is om aan te val.

Now, having regard to the whole situation and what you had heard that very moment, did you turn round to either of your colleagues or any of your colleagues, and say "Did you hear what I just heard?" or words to that effect? --- Nee, ek het dit nie gedoen nie.

Was this not something that you wanted to draw to the attention of the people nearby you, as something most extraordinary that had just come out of this crowd? --- Nee.

Now, you say you observed the person who had uttered these words? --- Ja.

And you claim that this person is accused No. 30,? --- Ja, dit is beslis.

Do you agree that as far as women are concerned she is the only woman today among the accused? --- Ja.

And whoever the person was that you saw that day, appeared to you to be a woman? --- Nie "appeared to me" nêe, ek het gesien dit is 'n vrou.

Anyway, you saw her clothing and so on? --- Ja, ek het haar gesien.

You took careful note of this person, having

uttered/....

entered these highly inflammatory words? ---Ja, Edelagbare.

I want you then Constable to describe to me please how she was dressed? --- Sy het daardie selfde rooi doek wat sy nou oor haar kop het, aangehad, en sy het 'n blouerige rok aangehad.

Anything else? --- En verder het ek haar baie n haar gesig 'n honderd persent goed gekyk. Sy het ongeveer tree van my af gestaan.

You say that she was right in the front row? --- In die heel eerste ry.

Against the fence? --- Teen die draad.

And were there other women anywhere near her? --- Ja, daar was.

Now, is it possible that there being other women near her, that you may be confusing whomever you are identifying with someone else? --- Nee, dit is nie.

Is it not possible that these words came from some woman closeby, and in the confusion you assumed that the words were coming from her? --- Nee, dit is nie. Ek is oortuig die woorde het van haar afgekóm.

Constable, I want you to consider your answer very carefully. Accused No. 30 is going to say that she was nowhere near the fence at the time of the shooting. ---Ek is bevrede dat ek haar daar gesien het.

She is going to say Constable, that at the time that the shooting occurred, she was near the shops? I would like you to look at Exhibit 2. You will see the word "winkels", and she is going to say that she was at a spot just south?

BY THE COURT:

Just south of the shops?

BY MR. UNTERHALTER:

Yes. ---Nee Edelagbare, ek weet nie dat sy sal sê nie/....

... , maar ek sê wat ek gesien het.

Is it not possible that having regard to the fact that you are a European, and she is an African woman, you may be ^{as} good at recognising the features and faces of members of another race, as you would be in recognising the face of a European? --- Nee, maar ek het haar gesig te goed onthou.

So as far as you were concerned, she was immediately opposite you, did I understand you to say? ---Ja, ek is tevrede dat sy daar was.

She was immediately opposite you? --- Ja.

And from the position in which you were standing you could then see her? --- Ek kon haar sien ja.

Now, at the time that she uttered these words did I understand you to say that she had a stone in her hand? --- Ja, sy het 'n klip in haar hand gehad.

Is that all that you saw, that she had a stone in her hand? --- Ja, dit is wat ek by haar gesien het, en die geskree van haar.

But the two things about her are that you heard her use these words, and you saw a stone in her hand? --- Op daardie moment ja.

Well, there is nothing else you want to tell us about her at any other time, do you? --- Ja, pas daarna het die klippe of het hulle begin gooi. Ek sal aanneem dat sy het ook gegooi. Na my mening moet dit 'n snaakse persoon wees wat sommer met 'n klip in die hand sal staan; dit is my bedoeling, alhoewel ek het op daardie moment haar nie gesien gooi nie.

Constable, you never ever saw her throw the stone did you? --- Nie vir haar persoonlik nie.

And you are merely making assumptions when you say that she must have thrown the stone? ---Ja, ek sal in 'n sekere mate aanneem.

You/....

You see, as I understood your evidence-in-chief, you said in reply to a question from my learned friend, that "I can point out people who threw stones", and then you went and you pointed out No. 30? --- Ja.

That is correct? --- Dit is korrek ja.

Now, in fact that evidence is strictly not correct, because you have just said to me that you did not see her throw the stone, you are inferring that she must have thrown the stone? --- Daar is 'n moontlike misverstand. Ek verstaan die een wat op my been gegooi het.

Well, I may be wrong Constable, but the note that I took of your evidence is this. "I can point out people who threw stones." I did not take a note "That I can point out persons who threw the stone that hit me". Now, perhaps you can explain that? --- Ek was van mening die Advokaat stel my die vraag of sy my teen die been gegooi het.

DEUR DIE HOF:

"Ek kon nie sien wie die klip gegooi het wat my teen die knie getref het nie. Ek kan persone uitwys wat daar was en gegooi het", and then he went and pointed out accused No. 30.

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

You have understood the question as put to you by His Worship? --- Ja, ek verstaan dit.

Or rather the evidence as read to you? --- Ja, ek verstaan dit..

Now, do you agree with me that in fact - you may not have intended it - but it is misleading, because No. 30 did not throw the stone? --- Sy het nie die klip op my been gegooi nie - dit is my bedoeling honderd persent - maar sy het wel klippe gegooi. Ek het net nie die vraag mooi verstaan nie.

But even as far as throwing stones generally are concerned/....

concerned, you cannot definitely say that No. 30 threw the stone, you are only drawing a conclusion from the fact that she had a stone in her hand? --- As ek mag weet watter klip?

Any stone? --- Ek het gesien sy gooi klippe, maar ek kon nie sien of sy die persoon was wat my op my kniekep gegooi het nie.

Well Constable, that is not the evidence as I understood you to give it only two or three minutes ago. --- Ek het dit beslis tog gesê, Edelaagbare.

This question of throwing stones or the possession of stones by accused No. 30, appeared to you to be a serious matter I take it? --- Ja, ek dink dit is 'n redelike ding. Hulle kon 'n mens doodgegooi het.

Because according to you now in one of the same person you find an individual who is uttering bloodthirsty threats, and a person who has a stone in her hand, and now I understand you to say a person who actually threw it? --- Ja, ek sê sy het gegooi.

You gave evidence at the Commission of Inquiry before His Lordship Mr. Justice Wessels? Is that correct? --- Ja, ek het.

You were aware I am sure that it was necessary to tell His Lordship everything that you knew of the behaviour of the crowd and the people in it to the best of your ability? --- Ja.

Now, you described to His Lordship that a woman used those words? --- Ja, Edelaagbare.

Now, this was at page 785. I have read all the evidence that you gave, and I can see no record of your having told His Lordship that this woman also had a stone in her hand, and that this woman threw a stone. Now, if that is the act of which she was guilty, why did you not tell His Lordship of

what/....

what she did, as well as of what she said? --- Edelagbare, die vraag was nie aan my gestel wie het ek gesien goei nie, d.i. by die vorige ondersoek nie.

Well, I am going to read to you Constable the question as it was put to you. It was put in very general terms. It is as follows, at the bottom of page 734: "Kan u ons die gevaar wat u gesien het beskryf?" You did hear that being put to you? --- Ja.

Then you proceed to say as follows: "Daar was ons met klippe bestoek gewees. Kieries was in die lug gehou, dit was geskree "Afrika!"; o.a. het een Bantoevrou gedans en gespring reg voor my. Sy het geskree "Vandag sal die bloed loop!" Ek het duidelik gesien dat hulle 'n sterk poging aanwend om te probeer die draad platdruk, om te probeer deurkom." Did you utter these words? --- Ja, dit is reg.

Now, I want to put it to you Constable, that when you say the question was not put to you explicitly, that it was put sufficiently generally for you to have incorporated in your description of what this woman did, what you have told the Court this afternoon? What do you say to that? --- Dit was nie aan my verduidelik nie. Dit is wat ek gesien het.

Yes. Now, you see Constable, at the top of page 735 you say: "Daar was ons met klippe bestoek gewees". You said that? --- Ja, ek het dit gesê.

Then you go on to describe what this African woman said. Now, if you had already, without being specifically asked "Were stones thrown at you?" voluntarily said "Stones were thrown at us", and you then described what this African woman had said, why did you not also say "And furthermore I should like the learned Commissioner to know that this very woman had a stone in her hand, and she threw it towards us"?

---^Nee, die vraag is nie aan my so gestel niek anders sou ek

dit/....

dit gesê het.

All right. The language that was used was the Afrikaans language was it not? —Ja.

DEUR DIE HOF:

U meen was die woorde in Afrikaans ge-utter? — Afrikaans is gebruik.

Deur 'n Bantoe wat kan Afrikaans praat? —Ja.

"Vandag sal die bloed....?" — "Vandag sal die bloed loop."

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

There is no doubt that those words were used, and they came across to you in the Afrikaans language? — Afrikaans ja.

Now, apart from having a stone in her hand, did she do anything else? — Volgens haar handelwyse daardie moment sal ek sê of veel ek amper oortuig dat haar doel was om die Bantoes op te sweep tot 'n bakleiery, aan die skree wat sy gedeem het.

Constable, I am not asking you to draw inferences as to what you think she was going to do. Apart from her having the stone in her hand, and throwing it according to you, and then using these words, did you observe this woman doing anything else? — Al wat sy nog gedeem het is sy het in die lug gespring en gedans en geskree.

A very prominent figure she must have appeared to you, dancing and jumping up in the air, having the stone in her hand, and screaming these bloodthirsty words? —Ja, sy het dit gedeem.

Someone who must have been equally as conspicuous to other Policemen who were near you and looking in the same direction? — Ek weet nie of die ander manne dit kon gesien het nie, of gesien het nie.

But/....

But Constable, anyone near you, looking in that direction, a distance of 7 paces away, and seeing a woman in the front row against the fence jumping and dancing and screaming, with a stone in her hand, must have been able to see her? Let us put it as low as that? — Ja, ek sal sê hy sou dit gesien het as hyna haar gekyk het.

Do you know the names of some of the colleagues who were near you in the line? — Nee, Edelagbare.

Were they men from Vereeniging? — Ek sal gladnie kan sêwie langs my was nie.

I understand there was some considerable pressure on this fence at the time? Is that right? — Ja.

What is your view Constable? Was this caused by the people in the front themselves pushing, or being pushed from the back by the pressure of the crowd at the rear? — Ek sou sê dit was die voorste mense wat dit gestoot het.

But there was also a very tightly packed crowd behind the leaders, who must have been pressing them to some extent as well? — Ja, maar ek sal staan op die punt die voorstes het dit gestoot, wat ek gesien het.

And were they all leaning heavily against the fence, those in the front? — Ja, hulle het gedruk aan die draad.

That apparently was causing the fence to lean over to some extent, inwards towards the Police Station buildings? — Ja, dithet voereer geleun.

How did it come about Constable that in these circumstances a woman in the front row, pressed against the fence as you have described, had the facility, the opportunity, to be able to spring in the air and dance as you have said? — Edelagbare, daar was nie aanhoudend aan die draad platgedruk

nie/....

nie. Indien dit gedoen is sou hulle hom platgedruk het binne 'n sekond.

So there were certain periods when the leaders, according to you, went back from the fence, and there was then some kind of dance room available for people who wanted to jump up in the air? --- Nee, ek sal nie sê daar was spasie vir 'n dansplek nie. Daar was, soos partykeer het hulle gedruk en partykeer het ^{die} een langs hom geskree en te kere gegaan.

--- You see the impression that I have been left with from descriptions ^{of} from the crowd, and its movement against the west fence there at that time, was that the back of the crowd was pressing in such a manner that the people in front just did not have any room to turn around and to perform the gymnastics you have described? ---Ja, dit is nou moeilik vir my om te sê tot hoe 'n mate hulle agter gedruk het. Ek kon die klomp nie sien daar agter druk nie.

Now, as I have understood your evidence, you say that this person was in front of you, if anything slightly to the right did you say? "Effens skuins na regs"? ---Ja, Edelagbare.

That would mean that if anything, she was just a little bit more to the north than you were, on your righthand side? --- Ja.

And it is that particular person in that particular position, just a little bit to the north of yourself in the position where you were placed, that you claim is accused No. 30? --- Ja, ek is certuig henderd persent dit is sy.

You yourself I think described your position as being a little bit to the north of the gate, I think. I will just check that. "I was north of the gate, about 7 paces. I had a .38 revolver". That is how I have recorded it. That is about correct, is it? ---Ja, Edelagbare.

You/....

You are looking at Exhibit No. 13. May I see it for a moment please? --- Yes.

I think that His Worship, in trying to assist you to position yourself, said that north is towards the top of the picture, and south is towards the bottom. You do understand the points of the compasses they are on this photograph, do you? --- Edelagbare, ek kan te enige tyd hier uitwys waar ek sou gestaan het, meer aan die noordkant.

That is to the top portion of the picture, rather than the bottom portion of the picture, so far as the yard is concerned? --- Ja, dit is na die "top" kant toe.

Perhaps you would like to put a cross there?

BY THE COURT:

If there are not any crosses already. He had better put his initial "F" on it.

Mark dit nou met 'n "F" op bewysstuk 13. --- Ja.
(Getuie dui die plek aan op die plan).

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

Constable, you have indicated with the letter "F" your approximate position? --- Yes.

And you see the group of people?

DEUR DIE HOF:

Maar volgens hierdie "F" was jy tussen die skare gewees? --- Nee, ek was net duskant die draad, Edelagbare.

Nou maar sit die "F" duskant die draad, want die skare staan anderkant die draad. Maak dit nou reg asseblief. Jy het hierdie "F" op die Hof se bewysstuk be-op die mense gesit wat in die skare was. Sê die "F" meer of min net waar jy gestaan het. --- (Getuie dui weer aan op die plan).

Jy het nie bedeel dat jy tussen die naturelle gestaan het nie? --- Nee Edelagbare, geensins nie.

Cross-examination/....

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

Constable, just have a look at Exhibit 13 again? You will see a small group of people on the same side of the fence as yourself? --- Yes.

Now, that is approximately the position of the gate, is it not? --- Ja.

I take it that you were in that position throughout the whole period from the time you were assembled in line until the shooting started? --- Ja, ek was.

DEUR DIE HOF:

Was jy een van die mense wat in gelid gestaan het?

--- Ek het in die veerste gelid gestaan ja.

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

And you were in that position at the time that you heard certain shots go off from the crowd? --- Ja, ek kan nie presies sê ek het net doodstil gestaan in dieselfde posisie nie.

But if you moved you would have moved a pace or two either way? --- Ek ken reedgetrap het eek.

I have got a little difficulty in understanding that Constable, because I take it you had been assigned into line, or called to be in line, under the orders of Colonel Pienaar? Is that correct? --- Ja, dit is so. Ons het reguit in 'n lyn gestaan.

And the last thing that in that emergency you as a body of men would have done, would have been to break line and go walking around? --- Ja, hulle sal nie reedloop nie.

DEUR DIE HOF:

U het gesê reedgetrap? "Reedgetrap" is net "reedgestap"!

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

In other words, you were more or less at the same spot/....

spot? --- Ja, ek was naasteby op dieselfde kol sal ek sê.

And you were there in that position approximately when a couple of shots came over the crowd, did they? --- Ja.

Have you any idea where those shots came from Constable, from what direction? south, west, north? --- Dit het meer aan die regterkant vir my vandaan gekom, noord-wes.

From the north-west. But whatever that position may be, it was a person immediately in front of you or a little to the right of you, that you claim is accused No. 30? ---Ja.

Now, that is not the evidence that you gave at the Inquiry Constable. I am going to read it to you, and then perhaps you can explain it. At the bottom of page 736 you were asked about the shots which you heard, and you say this. The question is: „Het jy sulke skote gehoor?" and you say „Dit het ek beslis gehoor." „Afgesien van daardie skote het jy gedink dit is moontlik Polisie wat skiet, of was jy oortuig dit was skote wat vanuit die skare gekom het?" „Ek was oortuig dit was skote wat van hulle kant kom". „Afgesien van daardie skote, het jy enige skote gehoor van die kant van die Polisie voordat jyself geskiet het?" „Ja, ek het". „Vanwaar het dit gekom?" „VanVaanmiddellik langs jou of verder weg?" „Dit was verder weg van my gewees". „Waar het jy gestaan in verhouding met die hek?" „In verhouding met die hek, as jy van die straat se kant af inkom, die Polisie werf in, aan die regterkant". Die Voorsitter: „Dit wil sê aan die suidekant van die paadjie wat lei na die Polisiestasie?" „Dit is reg." „Omtrent hoe ver van die paadjie of die grens, die heining, aan die suidekant?" „Ongeveer 7 tree van die heining af". You did say that at the Inquiry? ---Ja, dit is korrek. Ek kan dit verstaan.

Now, you see Constable, according to the evidence that/....

at you gave at the Inquiry, you placed yourself approximately 14 paces to the south of the gate. According to the point that you have described to His Worship, and indicated on Exhibit 13, you placed yourself to the north of the gate, and I think you did give some evidence in chief as to the number of paces that you were to the north. Yes, you said about 7. "I was north of the gate about 7 paces". Now, the difference therefore between the position that you gave at the Inquiry, and the position that you have given here today, is a difference of approximately 21 paces? What do you say to that? --- Ek het al uitgelys daar ook waar ek gestaan het, maar ek is oortuig dat dit is 7 tree en nie verder van die draad af nie.

No Constable, you appear to have misunderstood me. I am not discussing your distance eastwards from the fence, I am discussing your position in relation to the gate. Now, follow me carefully. The gate is a west gate? --- Ek het dit by die hek gestaan ja.

You have got that? The gate is a west gate? ---Yes.

According to the evidence that you gave at the Inquiry you were 7 paces to the south of that gate? According to the evidence you have given here you were 7 paces to the north of the gate. In other words, you were 14 paces away from the position that you described at the Inquiry. What do you say to that? --- As ek reg kan onthou het ek pas vanmiddag ook gesê dat as jy die hek inkom, die agterperseeel in, dan het ek aan die regterkant gestaan van die paadjie in die Polisiestasie in.

Now Constable, I went to considerable pains to make you understand the points of the compass in relation to that picture, and to give you a proper opportunity of indicating where you stood in relation to the gate, and after what I think was a very fair and full opportunity, you placed yourself/....

yourself at point "F" on Exhibit 13. Now, there is no question that Exhibit 13, that point "F" on Exhibit 13, is north, and there is also no question that in regard to the admission that you have made of what you said at the Inquiry, that you placed yourself on the southern part of the Police Station grounds when you gave your evidence at the Inquiry? --- Ek kan tog nie op 'n ander plek gestaan het nie. Wat ek alreeds gesê het is as jy die hek inkom van die straatkant, aan die regterkant het ek gestaan. Ek kan nie op 'n ander plek staan nie, want ek het daar gestaan.

If in fact you are so definite that you took up your position to the right of the gate as you came in through that gate, why did you not, in looking at that photograph, say to yourself: "But look, if I come in through the gate and I am going to stand on the right, I must put point "F" on the lower portion of the photograph and not the higher portion", as you have done? --- Ja, dit is 'n bietjie moeilik om die hek hier te onderskei. Dit is moeilik om die foto reg neer te sit soos die Polisiestasie staan, anders sou ek beslis honderd persent gesê het waar ek gestaan het. As hy reg neergelê was sou ek kon sê ek het daar gestaan, maar ek weet waar ek gestaan het.

Constable, you will remember that I said to you "Do you see that small group of people in the photograph? Now, they are opposite the gate, are they not?" and you replied "Yes". --- Ja, Edelagbare.

If I drew your attention to the position of the gate by indicating the group of people, why did you not then correct yourself by saying "No, I have made a mistake. Point "F" should not be above that group of people, it should be somewhat below it"? --- Ja Edelagbare, dit mag wees dat ek moontlik met die rigting op die kaart verwar is, maar ek is oortuig/....

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oortuig dat as jy die Polisieostasie inkom, ek aan die registerkant
gestaan het. Met die rigting van die foto was ek affeas
verwar wees, maar ek voel honderd persent oortuig dat ek daar
gestaan het.

And finally Constable, I want to put this to you
for this afternoon, that if you are so disorientated as to
the correct position that you had in that Police Station
ground on the 21st March, similarly you are mistaken as to
the person that you seek to identify here today, as the person
who said those words, held that stone, and threw that stone?
— See Edalaghere, see definitief nie.

NOF VERDAAR TOT 23.11.1960.