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D.M.O. Gray.

19TH DECEMBER, 1960.

COURT RESUMES : APPEARANCES AS BEFORE.

The Public Prosecutor calls:

DURGAN MAYNARD ORCHARDSON GRAY, duly sworn, states:

EXAMINED BY THE PUBLIC PROSECUTOR:

Mr. Gray, what is your designation at the firm of African Cables, Vereeniging? --- I am the Senior Accounts Clerk.

And as such are all the records relating to salaries and pay cards in your care and in your custody? --- Yes, under my control.

Now, is it correct that the pay card which is issued to the Bantu employees of your firm also embodies a portion at the bottom which may be used to put in the clocking-in machine? --- That is correct.

And the pay cards are for various weeks, issued for a week at a time? --- Issued for one week at a time.

Could you describe the procedure when an employee comes along to clock himself in? Where does he get his card from and how does he set about clocking in? --- The employee enters the factory gates and the clocking stations - we have a series of clocking stations together, ^{numbered} number say from 1 to 150 and 151 to 300, etc, and the relative cards for each of those numbers are put in a clocking station. They have a board where the cards are put in, and when the employee wishes to clock in he takes his clock card out, he clocks his time that he comes in, and he puts the card on the relative.... shall I say on the board on the in-station, and he reverses the procedure when he goes out.

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Is/....

Is there any check to see that any particular employee uses only his card? — Well, there is a check in as much that the Native Time Office do see that the boys coming in are not strangers and things like that, that they are our employees, and the gateman also does the same thing.

But apart from that I take it there would be nothing to prevent ^{one} employee clocking in for another employee? I mean that could escape notice? — That could happen.

Can I put it to you this way then, that if an employee does not clock in obviously he does not get any time booked and he stands a chance of not being paid for that time that he has worked unless he clocks in? — Yes, it is the procedure that if he does not clock he does not get paid.

And assuming that for some reason or other an employee does not clock in but does in fact work, how would he set about rectifying the matter? — Well, he would have to go to his foreman and say that he had failed to clock and would the foreman substantiate the fact that he was at work, and also fill in the times that he was at work.

Now, I would like to show you an exhibit, i.e. exhibit 81, which is a pay card for the week ending the 10th January, 1960. Is that a pay card? — That is an example of a pay card for the week ending the 10th January, 1960.

Belonging to the firm African Cables? — Correct.

In respect of an employee whose name is given on the card as Thaddeus? — That is right. He is an ex-employee.

And at the bottom of the card, is that the clocking-in portion? — The clocking-in portion is at the bottom of the card.

And does the clocking-in portion on that particular card..... The clocking-in machine shows the entries in a sort of a red ink? — Yes, in this particular case. Sometimes it is reflected/....

reflected in blue ink as well, but in this particular case it is in red ink.

And does the clocking machine also punch holes in under the particular day, i.e. in the card? — Yes, it punches.... not under the particular day. The card is marked from Monday to Sunday, and the clock actually punches holes the day following the day marked on the card. In other words, if it is marked Monday the clocking hole will punch on the Tuesday line, and then Tuesday will be punched on Wednesday, etc., through to the weekend.

Now, on that particular card, are there any clock machine entries for the 9th or the 10th January, 1960?

BY MR. UNTERHALTER:

Your Worship, I object to the evidence. My submission is that the Crown is leading this evidence not in the exercise of some abstract dissertation on clocking procedures at African Cables, but because it wishes to place before the Court certain information regarding the presence or absence of a particular employee at that factory at a particular time, and it is seeking to do so Your Worship through the records as they appear on that card, the red ink, whatever that designates, and the holes as punched, whatever that designates. For this witness to speak in regard to what appears on that card, for the purpose of presenting to the Court the truth of the fact whether, whoever that card relates to was at the factory at that particular time, I submit is not competent. Your Worship will recollect, and I shall presently give the Court the reference, the case of Rex vs. De Villiers. It was a judgment I believe of His Lordship Mr. Justice Millin, in which it was sought to establish the truth of the fact that a certain/....

certain engine number or chassis number on a certain card was such a number in relation to such a card, by reason of the fact that it happened to appear on the registration certificate of a particular vehicle in the custody of a certain Registering Officer, and if my memory serves me Your Worship, His Lordship in that case said it was no part of the duty of the officer who recorded that information at the time it was given to him personally to check whether that information as given was in fact so, in other words, to go to the engine and look at it and compare it and so on. Now Your Worship, similarly with respect my submission is that certainly from the evidence led so far by the Crown as coming from Mr. Gray, there does not seem to be the necessary link of whomever it might concern having seen who the particular person is on that card, and obviously he must be connected with some accused in this case for it to have any relevance at all, what that particular person was doing at a particular time, and if in doing anything with that particular card he was doing it on the date in question and at the time in question, in such a way as can carry conviction to this Court this morning that what is recorded on there is in fact correct, because all the antecedent checks have been completed.

BY THE COURT:

I am aware of that case, if you will just give me the reference.

BY MR. UNTERHALTER:

It is 1944, Appellate Division, page 493. The name of the case is Rex versus De Villiers. Apparently I might have been thinking of the Lower Court Your Worship, but this is the judgment of His Lordship Mr. Justice Davis, and it is of course with the entries in public documents as evidence
against/....

against everyone provided it is the legal duty to make such entries correctly for public information and reference, and they were made after proper enquiries and in proper time. In this particular case Your Worship, my submission is that this does not even pretend to be a public document. The principle that is applied, however, even against documents that would seem to be public in the sense of a car's registration certificate, is the same principle which I would submit applies here. It does not carry the necessary warranty of the truth that the Court must have, so that there is annexus between what this witness says and whoever the accused might be that that document concerns.

BY THE PUBLIC PROSECUTOR:

Your Worship, in the first place this case of Rex vs. De Villiers has been distinguished by subsequent legislation, particularly under the Motor Vehicle Ordinance.

BY THE COURT:

Well, this is not the Motor Vehicle Ordinance.

BY THE PUBLIC PROSECUTOR:

Yes, I am just ^{mentioning} that for the points taken up. Sir, I submit that this card is admissible by its mere production under Section 263 bis, never mind what the witness says about it. If I might just read it Sir. It says: "Any document, including any book, pamphlet, letter, list, record or poster, which was at any ^{time} on the premises occupied by any association of persons incorporated or unincorporated, or in the possession or under the control of any office bearer, officer or member of the association, and (a) on the face whereof a person.....that the accused was a member of an association". Now well, in its broad sense Sir, this is an association of persons, and the accused is a member of an/....

an association, not in the strict sense.....

BY THE COURT:

I have not heard anything about an accused. I have heard something about a man called Thaddea.

BY THE PUBLIC PROSECUTOR:

If Your Worship looks at accused No. 2 you will see that there is a man whose name commences with Thaddea.

BY THE COURT:

I will assume that you will want to connect this time card or clocking card with accused No. 2, Thaddea....?

BY THE PUBLIC PROSECUTOR:

Yes, that is right. Now, I would submit Sir that under that Section the Crown could produce that card plain and simple as having a name corresponding with accused No. 2.

BY THE COURT:

Now, let me get that quite clear. Do you want to prove his presence or his absence - I don't know which - at his work on the 10th January? Is that correct?

BY THE PUBLIC PROSECUTOR:

Yes, Your Worship. Now, the Crown can set about it first of all by having the document produced under that particular Section. Then I submit Sir that it is relevant for the Crown, and also admissible for the Crown, to prove, by means of this witness, what the procedure is for a man clocking in, and that the Court can then draw inferences from that particular document. If the man lays the foundation as to how a person sets about clocking in, that the control is simply in the person of the accused person - he is the only one who handles that card and clocks it in and out, or possibly somebody else could clock in and out for him, for the Crown has already placed it on record..... Then the other point which arises

is/....

is this. If he does not clock or the card does not bear any punch marks, then he does not get any salary. If the Court sees that the card does not bear any punch marks, then obviously the Court can - I say not must, but can draw an inference that if the card is not punched, then obviously the machine was not operated, and there must be some explanation for it. Either the man was not at work, or he forgot to do so, or he was sacked before that time, whatever the reason might be, and perhaps one day when accused No. 2 should ever go into the box, he might have to give an explanation. I did not introduce the matter, my learned friend stated emphatically under cross-examination that he will say he did work on these days. I would submit Sir that there must be a distinction drawn between admissibility and the weight to be attached to it.

BY MR. UNTERHALTER:

Your Worship, as I read with respect Section 263 bis

BY THE COURT:

Well, don't worry about that section. I am not going to rule that it applies. On the face of it it does not seem to apply. It seems to apply to documents found in the offices of certain organisations.

BY MR. UNTERHALTER:

Yes, they are usually political. Your Worship, my learned friend's approach is the following. A question was put in cross-examination to the private detective. There was an indication to the Crown of what the second accused would say in regard to his presence at the party on that particular day. He would say he was not there, and further that in fact he was at African Cables. Now, my learned friend is seeking in advance, as he is perfectly entitled to do, to discredit the second/....

This is a piece of paper and it has certain marks on it, and if it is to be connected with the accused a foundation must be laid, and if it is to be connected with a time that he was there, then the foundation must be laid, and it is not laid in my submission only by the production of that piece of paper. It is not for me to suggest what my learned friend must do in this matter, but there are Time Offices, there are people who are present, there are people who watch people who clock and who will have seen so and so come, or will have been able to testify to his not being there. Your Worship, the obvious case is, if two people work together at a bench in a little workshop and one calls the fellow and says "Was this man present with you on this particular day," then he will say "No, he worked throughout the whole day, and the particular person in question was not present with him. That is perfectly admissible evidence. The man is testifying to a negative state of affairs, the absence of a particular person. That Your Worship, in my submission is not proved by a piece of paper.

BY THE COURT : TO THE WITNESS:

Mr. Gray, before I give a ruling on this matter, can you explain to me how a man clocks in please? What does he do? — Well Your Worship.....

He has got his card out now, and what does he do then? I think there has been some supposition that I know how it is done, but in fact I don't. — Your Worship, when he comes in he gets his card and before him is a dial or a clocking dial with the time on it, and the mechanism underneath has a slit which fits this particular card that I am holding in my hand. He presses it down like that, and when it comes to the time, say 8.38 minutes here, a bell rings, and when the bell rings it punches that hole in it. When the bell has rung

he/....

he withdraws the card and takes it out and just puts ^{it} in the relative place.

And does the card show directly what the time was when he inserted the card into the machine? --- Yes.

The time of the day? --- Yes, the time that is on the clock is printed on the card.

Printed on the card while he is doing that? --- While he does that operation.

This hole that we heard about, what is the significance of that? --- Well, it is to prevent the clock from when he comes say for his lunch hour, to prevent the clock from overprinting, and this little punch - I don't know what its name is, but anyhow this thing that punches the hole there will move to the next block and punch the hole there. In other words, to prevent reprinting or overprinting this little hole is there, and it can pass this particular little punch and go to the next block.

Does an employee in this manner record the time when he assumes duty, say in the morning? --- Correct.

And does it record the time when he goes away for lunch? --- Correct.

And when he resumes duty after lunch? --- Correct.

And when he stops his work for the day? --- Correct.

That is what happens? --- That is the procedure yes.

Is there a clock somewhere nearby for the employees to see whether the cards are reporting matters correctly? --- The clock is actually directly in front of him.

He can see the clock? --- Yes.

In other words, when he withdraws his card he can see if this machine has recorded the time correctly or not?

--- That is right.

Now/....

Now, let us suppose it is in respect of the 10th January that you are concerned with.....

BY THE COURT : TO THE PUBLIC PROSECUTOR:

Is that correct, Mr. Prosecutor? --- Yes, Your Worship.

Are you trying to prove the presence of Thaddea at certain times, or the total absence of Thaddea? --- The total absence, Your Worship.

BY THE COURT : TO THE WITNESS:

If a man then did work and has not clocked in or out on any of those four occasions, ^{that is when} ~~that is when~~ he goes to his foreman and explains things? --- Then he goes to his foreman.

And has matters adjusted? --- Yes, that is correct.

BY THE COURT:

Gentlemen, the position to me seems to be that the Crown is trying to present evidence to the Court of entries made by the accused in regard to whether or not he was present at work. If he had made them in writing that would have been admissible. Surely, if he has not made them in writing but he has made them by means of a clock, I can still see no difference. To me it seems that the Crown is trying to present evidence that on a certain ^{day} the accused could not have been at work because his card for the day does not show any clocking in by him. In other words, the Crown is trying to prove his absence from work on account of absence of entries by him by means of this clock, and as far as I am concerned that is admissible evidence. I am not concerned with its value for the moment. The card as it is handed in through this witness is only connected with a person called Thaddea.

Well/....

Well now, as this is not quite straightforward perhaps you can get it from the witness as to what this card does reflect in respect of that day.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Does Exhibit 81 reflect any clocking in entries for the 9th, which was the Saturday, and the 10th, the Sunday, of January, 1960? --- No, it reflects no clocking at all.

Now, if a man has for example worked on a day but he has not clocked in for some reason or other, and proceeds to take the matter up with the management, would his pay card show any endorsements or anything of that nature? --- Yes, before the Wages Department can work out his wages the pay card will have to be endorsed by the Labour Officer with the hours of entry into the factory, his lunch hour and his clocking out time, and be signed by the Labour Officer in front of initialled, and at the back of the card the foreman in charge of that particular section would have to endorse the card and indicate to which cost code the cost of that day's work would have to be allocated.

And does Exhibit 81 show any entries which might be construed or interpreted as being entries of the nature which you have just described? --- No, there are no such entries at all.

BY THE COURT:

Mr. Prosecutor, I am sorry. This is not the absence or the presence of an entry by the accused. It is purely the absence or the presence of an entry by somebody else. Why not call the foreman? I can't see that this is evidence, the absence of an entry by somebody. I must sound a warning to you that it is not on the same basis.....

By/....

BY THE PUBLIC PROSECUTOR:

Perhaps I need not have taken it so far, Your
Worship. I might just have elicited the explanation from the
witness.....

BY THE COURT:

I have got a note that the card is bare of such
an entry, for what it is worth.

BY THE PUBLIC PROSECUTOR:

And Your Worship has the explanation by the witness
of what happens if a man does not clock in.

BY THE COURT:

And what the usual procedure is. Very well.

CROSS-EXAMINED BY MR. UNTERHALTER:

Mr. Gray, I take it that your principal duties at
the firm are concerned with the accounts of the firm? ---
That is correct. The accounts and wages.

You yourself are not an expert time-clock mechanic?
--- No, I am not a time-clock mechanic.

You can't assure us of your own knowledge that
the times as they are printed in the columns Monday, Tuesday,
Wednesday, Thursday and Friday, were correctly recorded by
the machine? --- Well, to the best of my knowledge the machine
was not out of order and therefore the clocking times should
be correct as indicated.

Now, you say to the best of your knowledge. In
fact you cannot guarantee is? Is that not so, Mr. Gray? ---
Well, from the point of African Cables we assume that the
clocking times are correct and therefore we pay with the
knowledge that those machines are purchased for the benefit
of African Cables and for the best use thereof, and therefore
they should be correct. If there is any breakdown we will
naturally/.....

naturally know about it within a very short while.

You, in other words, are making an assumption that the clock is working correctly? --- We have to assume that the clock is working correctly.

A large number of your employees are illiterate? --- I would not really know.

You can't say definitely that everyone of the African men employed by your firm can read and write? --- Well, I can state that every employee of ours knows his company number and can read them. Therefore he would not be able to clock if he could not read the number that is indicated on the top righthand corner of the clock card.

An employee might possibly be able to read a number, but you cannot assure His Worship that they could read words? --- No, that I cannot do.

Now, you will observe from this card that there are columns under the days of the week as I have put it to you, Monday to Friday, or Monday to Sunday for that matter, and there are certain figures underneath them? --- Yes.

A man who cannot read and who has clocked his card, would therefore not be able to know whether in clocking on a particular time he clocked it under the Thursday, the Friday, when it might be the Saturday or the Sunday? Do you concede that? --- Would you please repeat your question?

Well, assume that a man works on a Sunday and he cannot read, but he clocks the card in fact on a Sunday, but that the card for some reason which we won't go into, clocks it on the Friday. Just take that as an example. If this man is illiterate he will have gone through the mechanical motion of punching the card, but he would not be able in looking at it to read that in fact he had clocked on the Friday instead of on the Sunday, because he is illiterate? Do you concede that/....

that? --- Yes, I concede that.

Now, you personally would not be able to say that any particular person has clocked this card at any particular time, because it is not part of your duties to stand in front of the clock and watch people take the card and clock it? --- That is correct.

So that in regard to Exhibit 81, you cannot tell us whether this card in fact was clocked by a person whose name is Thaddea, or might perhaps have been clocked by someone else by mistake? You could not speak to anything in connection with the handling of this card? --- Well, it is hardly likely that anybody else would have clocked it.

That is your evidence on the system in the factory?
--- On the system in the factory.

But talking directly and actually of a person whose name is Thaddea, you cannot tell us whether or not this person handled this card or did not handle this card? --- Well, I can say that possibly he has handled the card, because his thumb print is on the back of that card.

Possibly, but you cannot say actually that he handled this card say at 1.59 on Friday as the card seems to read? --- No, that I cannot say.

With your own eyes and ears you did not see it? --- Correct.

Now, you were describing these holes. I see on this particular card that there is a column Monday, and a column Tuesday. At the righthand side of the column Tuesday there are four holes punched. Why are they punched for the first time on the card on Tuesday? --- It is the way the mechanism works on there. They apparently have to punch it on the Tuesday for the Monday clocking. The holes are so situated/....

situated that it fits, they have got to fit the mechanism in, onto that particular type of card, and therefore they punch the holes the following day, so that it fits into this particular type of clocking machine or punching machine, whatever you like to call it.

You are assuming that it does that? --- No, I know it does that, because that is the way it is set up.

Of course if the clock goes wrong for any particular day, and instead of really punching the Monday's times it is punching the Tuesday's times, then the whole thing would be thrown out? --- Yes, if there was a breakdown in the electricity supply then that would happen.

Now, His Worship made a comment that in a way this is equivalent to the handwriting of a person called Thaddea. As far as all the writing itself is concerned.....

BY THE COURT:

I made the comment that this is in the nature of entries made. It can be said to be analogous to entries in writing made by a person called Thaddea in the ordinary course. I must still know who Thaddea is, and somebody may have forged Thaddea's entries.

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

I take it Mr. Gray that as far as all the handwriting that is in ink, pen and ink, is concerned, that is the work of some clerk in the office, and it is not the work of any artisan who is to be paid on a daily basis? --- No, no artisans write on there. The only person who would write on there is the clerk who enters the name on the pay card, and the foreman who enters the entries on the back of the pay card.

Similarly the rubber stamp for the 10th January, 1960, would not be put on by the workman, but it would be put

on/.....

on by some clerk in the pay office? — Correct.

And No. 696 I take it is printed with the card, or it is done in the office by a numbering machine and is likewise not the work of the artisan concerned? — It is numbered in the Native Time Office.

Now, dealing with the red and blue numbers at the bottom of the card, just to repeat, the system is that that is clocked by the workman to whom the card relates? — Correct.

You personally cannot say in respect of any of the accused in this Court, involved in this case, that you personally saw any of them operate this card so that it punched this particular time? — No, I cannot say that.

I notice that the week ends on the 10th January, which is a Sunday. Why is the week made to end on a Sunday? — Well, we start work on a Monday morning and we pay from 7 a.m. the Monday until 7 a.m. the following Monday. If it is necessary for the clock to be clocked after midnight on Monday it will revert to the first column where Monday is printed. We can clock from Monday to Monday on that, and from 7 a.m. to 7 a.m. the following Monday.

Now, I take it that occasionally a firm of your size does work on a Sunday? — We have occasion to work on Sundays yes.

Thank you, Your Worship.

NO CROSS-EXAMINATION BY ACCUSED NOS. 1, 3, 4, 8 AND 38.

COURT ADJOURNS.

Court/....

COURT RESUMES:

DURGAN MAYNARD ORCHARDSON GRAY, under his former oath, continues
CROSS-EXAMINED BY ACCUSED NO. 39:

Mr. Gray, is it not possible that when one takes a card and places it in a hole, and one is in a hurry to get away, that perhaps when you press that button so that it clocks, it may not clock? — The clocking may not be distinct but there would be certainly some evidence of a disturbance on the sheet of paper, i.e. on the clock card.

Is it not possible that when one places the card there the clocking machine does make a noise if it is clocking, and yet the card has not reached that place where it is supposed to press against it, and then it clocks, and when you pull out the card it is still clean and it has not got any marks on it? — Well, in that case there may not be any marks on it, but I would suggest that he goes to his foreman and get the matter rectified, but I could not possibly say that there would be no mark at all. From what I have seen of those clocks there would be some indication of an attempt at clocking.

I am putting it to you now that it does happen at times that people who are not accustomed to using these clocking machines just place their cards in the machine, and without noticing whether it has marks on it they just pull it out and place it there, and then ^{go away?} ~~go away?~~ — That is quite possible.

I am putting it to you again that in many instances the clocking cards sometimes get stuck there, and they are not in a position to be pulled out, and that necessitates that one should get a new card from the office and leave that one there in the machine? — No card is left in the machine, because then nobody else will be able to clock in that particular/....

particular machine. If that was the case then they immediately report it to the office, because the other boys following, or the other employees following, would not be able to make use of the clock, and therefore it would immediately be stripped and this faulty card taken out.

Yes, but is it not then possible that even if perhaps that machine is rectified, that torn portion of the card is disregarded to such an extent that that particular employee has to obtain a new card from the office? — Yes, that is quite possible to happen. As I explained that if the employee's clocking is not indicated clearly on the card, or there is no clocking whatsoever, he must go to his foreman to get the clocking clarified, and the foreman will sign the card. The Labour Officer will also have to come into the proceedings, to put the hours of work on the front of the new clock card or the duplicate clock card, and they both sign it to the effect that the employee was there.

Is it not true further that on the clock card there is a date stamped thereon? — There is a date stamped on the clock card.

Is it not true that these date stamps are always carrying pre-dates of the certain weekends, i.e. to say if it is this weekend, the past weekend, then the date which is going to appear there is the date of the following weekend? — The pay cards that are sent up to the office all bear the same date, and those cards cannot bear any other date than the weekend in which we are actually working, because that particular date, if it was say the following week's card, date stamped say the 17th January in this case, then that card would be only clocked say for one, two or three days, and we would not be able to use it, because we cannot use the current week's cards/....

cards. I think that is the answer to this question.

Well then, does it not on certain occasions happen that the clerks there in the office make mistakes, seeing that this date stamp is not only used for clocking cards alone, but it is also used for some other purposes, i.e. to say sometimes you find a clerk having altered the date to suit that particular thing which he wants to date-stamp, and then he stamps the card which has been brought in? Such an error, can it not happen? --- Well, it could happen if you happen to issue a duplicate card, but in our experience if a duplicate card is issued, the date for the weekend is written in ink. The date stamp is not used because that date stamp is usually two or three or maybe four days out of date, and therefore they write it in ink, i.e. on a duplicate card.

No further questions, Your Worship.

RE-EXAMINED BY THE PUBLIC PROSECUTOR:

Just to get the operation of the machine clearly. As I understand it this machine, this time clock, must be a combined calendar as well as a time-piece? --- Well, it does not reflect any dates. It works from Monday to Sunday, and back from Monday to Sunday. The automatic mechanism switches it back at the end of the week when midnight comes on the Sunday, and then the mechanism switches it back to the Monday.

Let me explain what I am after. Your time card is divided into so many days, Monday, Tuesday, Wednesday, in columns? --- Yes.

Now, the man clocks in on the Monday and the machine automatically prints under the Monday column? --- Correct.

Now, when it comes to Tuesday, how does the mechanism operate so that it moves it on to the column for the Tuesday? --- Well, I think there are certain springs in the

actual/....

actual mechanism, and they are so set that they move approximately a quarter of an inch or the width that is indicated on those cards. I don't quite know the exact width.

So can it happen then if a man for example works on a Sunday, puts his card in on that Sunday, presses the button which operates the machine, and this machine stamps its time under the column for the Saturday? Could that happen? ---Well, it is very, very doubtful. Very, very doubtful, unless there was something seriously wrong with the machine.

Apparently the employee must push his card fully in and then he has to press a button to operate the machine? --- Well, in my previous evidence I did not make mention of this little button on there, because I have never used the card myself, but I do know that the method of operation is to press it ^{in, and then} ~~this button~~ they press this little button and then it punches the card.

I take it due to ignorance a man might not press the card sufficiently home, and when he presses the button that would either make no entry or it would leave some impression or mark? --- It would leave some impression. They have a little tape like on a typewriter, and if that tape for instance were to wear out or get torn or something, there is still an impression of the printing - you know like on a printer's thing, there is still that impression on the card.

And why would a fingerprint be placed on the back of a card, such as this one for example? --- Well, that is to indicate that he has received an envelope which contained his pay or something to that effect. You know, normally it is his pay.

Thank you, Your Worship.

BY THE COURT:

Mr. Gray, this card shows that the man worked five days/....

days that week? --- That is correct yes.

What is the usual working week, and that is now in the absence of special work or overtime or something like that?

--- The usual working week is from Monday to Friday.

The usual working week is Monday to Friday? --- Yes, that is for most operations, other than for gatemen, boilers and so on.

So that if a person works on a Saturday or a Sunday, would that be overtime work? --- That would normally be overtime.

But is that in the usual course reflected on the card like this? --- That is always reflected on the card in the same way as his weekly Monday to Friday clockings are.

Is there a particular officer of the Company in charge, who watches how the men clock in and clock out, and who takes charge of the cards? --- Well, there usually is a native watchman within the vicinity of the clocking station at the time that the boys are coming in. You know, at the main time shall I say, at the main times of clocking which are seven o'clock, twelve o'clock, one o'clock, and five o'clock in the afternoon.

No, but there is no man actually in charge of these things I take it? --- There is no man as such. He just keeps a general eye on the proceedings.

But if an employee has worked his week, does somebody extract the cards and set about calculating the amount? --- Yes, at the end of the week the cards are collected by the Native Time Office from the various departments.

By somebody from your Time Office? --- Yes, from the various departments, and they are then sent up to the office for calculation of wages.

There is a space at the back for the foreman's signature/....

signature. How often is that put on? — The foreman's signature is supposed to be on there daily.

Well, his signature or initials? — Yes, or initials.

Then you said the fingerprint is usually put on when the employee receives his pay envelope? — That is correct.

As a receipt? — No, it is not a receipt. It is just to indicate that we have handed a pay envelope to him.

And if it is the fingerprint of the true holder of the card that establishes the identity? — It is just to establish identity. No other purpose is served by it.

Thank you very much. You may stand down.

LODEWYK CHRISTOFFEL SMIT, beëdig, verklaar:

VERHOOR DEUR DIE PUBLIEKE AANKLAER:

Mar. Smit, is u 'n telefontegnikus in diens van die Departement van Poswes, en op die 21ste Maart van hierdie jaar was u te Vereeniging gestasioneer? — Dit is reg.

Op die 21ste Maart hierdie jaar, omtrent 4.30 v.m. en as gevolg van inligting wat u ontvang het van die poskantoorowerhede, het u gegaan na Sharpeville naturesledorp of the pad wat daarna lei? — Dit is reg.

En het u enige fout gevind met telefooninstallasies iewers? — Nee, nie met die installasies nie, maar met die kabeldistribusie.

Met die kabeldistribusie? — Ja.

Waar is daardie kabeldistribusie? — Dit is 'n kabel wat onder die spoor deurgaans as jy uitgaan Sharpeville toe. Aan die anderkant van die spoor sit die kabeldistribusiedoos.

Is/....

Is dit die een wat teen 'n paal loop? --- Ja, die kabel self gaan teen die paal op.

En daardie kabel....

DEUR DIE HOF:

Het u nie miskien die nommer van die paal of soiets nee? --- Nee, daar is geen nommer op hom nie.

Goed. Gaan maar aan.

VERHOOR DEUR DIE PUBLIEKE AANKLAER VERVOLG:

En daardie kabel wat se diens dra dit? --- Dit dra al die telefoondiens na Sharpevillelekasie toe.

En was daar enigiets verkeerd met daardie kabel?

--- Ja, ek het 'n fout geseek op die draade aangesien die verbinding heeltemal verbreek was, en toe het ek gevind dat die kables afgekap is.

Omtrent hoe hoog van die grond af was die kables afgekap? Kan u onthou? --- Ek sal sê ongeveer agtien duim van die grond af.

U het die woorde afgekap gebruik. Hoe was die punte van die draade, hoe het dit vir u gelyk? --- Ek sal sê afgekap met 'n mes en 'n hamer of met 'n byl, en die punte was weggebuij gewees, weg van mekaar af.

En watter effek het die afkapping van die kabel gehad seker dit betref die telefoondienste tussen Sharpeville en Vereeniging of Sharpeville en die buitewêreld? --- Hy was heeltemal afgesny van die buitewêreld gewees.

En het u toe teruggegaan na Vereeniging toe, en mnr. Bekker, 'n kabellasser, uitgestuur? --- Dit is reg, want dit is nie my werk om die kabel reg te maak nie.

GEEN KRUISVERHOOR DEUR MNR. UNTERHALTER.

GEEN KRUISVERHOOR DEUR BESKULDIGDES NRS. 1, 3, 4, 8, 38 EN 39.

THEUNIS JOHANNES CORNELIUS BEKKER, beëdig, verklaar:

VERHOOR DEUR DIE PUBLIEKE AANKLAER:

Mnr. Bekker, is u 'n kabellasser in diens van die Departement van Poswese? — Ja.

En is u nog op Vereeniging gestasioneer? — Nog steeds.

Nou, op die 21ste van Maart hierdie jaar, ontrent 8 v.m., as gevolg van 'n opdrag van die Poskantooringenieur het u uitgegaan op die pad wat na Sharpeville naturelledorp lei, die gruispaadjie wat uit die hoofpad afdraai? — Ja.

En het u uitgegaan om 'n fout of iets te herstel wat verkeerd was? — Ja.

En het u toe ontdek wat verkeerd was? — Ja, die kables was afgekap gewees.

Watter kables was dit? — Wat die lyns na Sharpeville toe veer, tussen Vereeniging en Sharpeville.

Is dit die telefoonkables? — Ja.

Kan u miskien die paalnommer onthou, of die plek meer in besonder beskryf waar dit was? — Dit was net anderkant die speer.

Aan die linkerkant of regterkant se kant van die pad? — Aan die linkerkant van die pad.

Omtrent hoe dik was die kabel wat afgekap is? — Hy is ongeveer ontrent 'n halfduim. Daar was drie van hulle.

Drie van hulle was toe afgekap? — Ja.

DEUR DIE HOF:

Was daar nou drie sulke kables afgekap, elk van 'n halfduim? — Ja.

VERHOOR DEUR DIE PUBLIEKE AANKLAER VERVOLG:

Op watter manier was hulle deurgesny? — Soes hulle teen/....

teen die paal opgaan was hulle se afgekap.

En het u die kables herstel? --- Ja.

Hoe lank het dit u gevat om dit reg te maak? ---

Ongeveer ek dink drie uur.

Dankie Edelaagbare.

KRUISVERHOOR DEUR MNR. UNTERHALTER:

Would you say that telephone communication was re-established between Sharpeville and the outside world about eleven o'clock on the morning of the 21st March? --- No, about one o'clock.

Thank you, Your Worship.

GEEN KRUISVERHOOR DEUR BESKULDIGDES NRS. 1, 3, 4, 8, 38 EN 39.

DEUR DIE HOF:

Mnr. Bekker, as ek nou reg onthou wat ek gesien het by die inspeksie ter plaatse, dan loop die telefoonrade met pale tot by 'n paal aan hierdie kant van die spoor? --- Ja.

Dan gaan hulle af ondergronds in kables in? --- Dit is reg.

En kom anderkant weer uit by die volgende paal? --- Ja.

En dit is by daardie paal wat u toe die kables afgekap gevind het? --- Ja.

Is dit 'n paar honderd treë buitekant die lokasie self? --- Ja, dit is ongeveer ontrent 400 treë van die Munisipaliteit af.

Van die Munisipale kantore af? --- Ja.

Buitekant, aan Vereeniging se kant? --- Ja, aan Vereeniging se kant.

Was die kables geheel en al afgekap, sedat niemand wat 'n telefoon in Sharpeville lokasie het dit kon gebruik nie?

Nee/....

--- Nee.

So u sê daar was werklik drie kables afgekap? ---

Ja, drie.

En die kables het elkeen 'n klomp draadjies binne-in, 'n sekere aantal lyne? --- Ja, daar is vyftien telefoons aan elke kabel.

Is daar nou enige stappe gedoen om die kables te beskerm teen hierdie soort van ding? --- Ja, ons het tee pype oor hulle gesit.

Mek.ander woorde die kabel is binne in 'n leedpyp, of wat? --- Nee, 'n ysterpyp.

Dit is nou, na hierdie gebeure? --- Ja, dit was dieselfde dag gedoen.

So iemand meet nou eers deur die ysterpyp saag of kap, en dan kom hy by die kables? --- Ja, dan sal hy by die kables kom.

Ja dankie, jy kan maar afstaan.

BY MR. UNTERHALTER:

Your Worship, before the witness goes would the Court put one further question?

BY THE COURT:

Yes.

BY MR. UNTERHALTER : THROUGH THE COURT:

When you had completed the repair work did you inform anyone at the Municipal Offices at Sharpeville that telephone communication was now re-established? --- Yes, they were told.

BY THE COURT:

Somebody at the Municipal Offices? --- Ja, hulê was daar by my gewees.

Van/....

Van die Munisipale beamptes? ---Ja.

Van die lekasiekantere af, was by u? ---Ja.

Tee u dit klaargemaak het? --- Hulle was daar.

En gesê het „Dit is nou in orde“? --- Dit is reg.

BY MR. UNTERHALTER : THROUGH THE COURT:

And do you know if there was any telephone call put through from the Municipal Offices to the Police Station to test that there was now communication between these two points in the location? --- We advised our test room and they do the testing.

You don't know yourself if the Police Station....?

--- No, I just notify them that the job is complete, and then they do the testing.

DEUR DIE HOF:

Mr. Bekker, het dit selfs, terwyl die kables af was, bedoel dat persone binne in Sharpeville, wat telefonies met ander persone binne in Sharpeville wou in aanraking kom, dit nie kon doen nie, of kon hulle dit doen? --- Nee, hulle kon nie.

Want dit moes alles hier deur 'n sentrale gaan? ---

Ja, die Vereeniging sentrale.

Dankie. U kan maar afstaan.

DAVID KUTOANE, duly sworn, states: (Witness speaks Sesuthu).

EXAMINED BY THE PUBLIC PROSECUTOR:

You are a Bantu Constable in the South African Police stationed at Sharpeville, Vereeniging? --- That is correct.

How/....

How long have you been in the Police Force? --- Three years.

And how long have you been stationed at Sharpeville?
--- I have completed a year; this is my second year.

Where were you before that? --- When I joined the Force I joined here at Vereeniging.

And did you give evidence before the Judge who was here, at the Commission of Inquiry? --- No.

Now, on the 21st March, i.e. the day of the shooting, were you at the Sharpeville Police Station? --- Yes.

Were you there until the firing took place? --- Yes.

Were you ever sent on any messages? --- No, I was never sent or given any message to take away.

And afterwards did you attend identification parades?

--- Yes.

How many identification parades did you attend? ---

Two.

One at Boksburg and one at Vereeniging? Is that correct? --- Yes.

Now, when you were brought on to the parade at Boksburg, which was on the 19th April this year, what were you asked to do? --- I was asked to point out the people whom I saw on the 21st March at Sharpeville.

Now, just deal with the Boksburg parade for the moment. Did you point out anybody? --- Yes, I did point out some at Boksburg.

Can you recall how many persons you pointed out? --- If I remember well I pointed out three persons.

And will you be able to point any of those three persons today, if they are present? --- Yes.

Will you stand down and look through the court room to/....

to see if those people are present? — Yes. (Witness stands down and points out accused No. 8, Emmanuel Teketsi, as well as accused Nos. 3 and 43).

Now, where on the 21st March, 1960, did you see No. 8 accused? — He was at the Police Station amongst the crowd.

What time was it approximately that you saw him? — It was between ten and eleven o'clock.

Now, you know that the front of the Sharpeville Police Station faces on to a street which has an island in the middle? — Yes.

Do you know the name of that street? — Yes.

What is it? — Zwane Street.

Do you know that on the western side of the Police Station, where the big gate is that leads to the big steel gates of the court-yard, there is a street between that portion and the clinic? Do you know which portion I mean? — Yes, I do see that street.

We have been talking about the big gate side of the Police Station, and then on the Zwane Street side there is a small gate, and that is the small gate side of the Police Station. — Yes.

Are these the only two gates that you have at the Police Station? — Yes.

Now, whereabouts did you see accused No. 8? On which side? — In Zwane Street.

And what was accused No. 8 doing when you saw him? — When I saw him he was walking up and down.

Up and down where? — Just in front of the island there.

Of the island? — Yes, the island.

Whereabouts/....

Whereabouts in relation to the Police Station? ---
In the vicinity of the small gate.

And what did he do or say as he walked up and down,
i.e. No. 8 accused? --- He was a distance away from me. I
cannot say what he was saying.

And did you notice any movements of his arms at all?
--- I saw him wave his hands in this manner, but I could not
see.....

BY THE COURT:

Just a minute please. Mr. Prosecutor, I must ask
you not to put leading questions. A Magistrate was severely
condemned last week by the Appeal Court for asking a perfectly
innocent leading question!

BY THE PUBLIC PROSECUTOR:

Yes Your Worship, I will try and reframe my question.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Look, you have told the Court you saw this man

BY THE COURT:

Candidly, if you have suggested his arms you have
suggested his doing something with his arms. Don't make that
suggestion please. Try to frame it in some other way.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

When you saw the man walking up and down I take it
you saw his legs moving, that he was walking did you not? ---
His legs were not visible to me because the crowd was big and
he was amongst the crowd.

You saw this man moving up and down? Is that correct?

---Yes.

Could you notice the other limbs of this man, i.e.
No. 8 accused? --- Yes, I did notice a portion of his body,
because it appeared and disappeared, and appeared and disappeared.

Well/....

Well, please tell the Court what portion of the body you saw? --- From where I indicate just below the belt, upwards. (Witness demonstrates to the Court).

And what did you see happening to those portions of the body that you were able to observe? --- When he was walking there I only noticed his hands going up, the way I now indicate. (Witness demonstrates to the Court).

Was there a crowd of people at the Police Station when that was happening? --- Yes, there was a crowd.

Was there any reaction from anywhere when you saw accused No. 8 making this sign that you have demonstrated? --- Reaction like what?

I am asking you, I was not there? --- From the morning the people were saying "Africa! Iswe Lethu!", and at that stage too they were still saying that.

You saw No. 8 accused walking up and down and making these hand movements, and you say there was a crowd of people at the Police Station. Now, whereabouts in relation to this crowd of persons was No. 8 moving up and down? --- He was inside the crowd.

Inside the crowd? --- Yes.

And was there any reaction from the crowd when No. 8 walked up and down and making these signs that you saw him making?

BY THE COURT:

I am afraid you have put that question already Mr. Prosecutor, and you have had a reply to it.

BY THE PUBLIC PROSECUTOR:

I see. I am finding difficulty in examining the witness YourWorship, because the witness stated or asked "What reaction?" and then I asked him to try and tell me what he saw/....

saw because I was not there Sir, and then I brought him back to try and orientate him as to what reaction there was. If Your Worship could tell me what you have noted there in regard to the reply to the question that I received I would be very glad.

BY THE COURT:

He said "From the morning the people had been saying "Africa! Iswe Lethu!", and they did the same thing at that time". That is on record.

BY THE PUBLIC PROSECUTOR:

Oh, I missed that portion. I won't pursue that question.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Did you notice what happened to No. 8 accused eventually? --- I did not see what eventually happened to accused No. 8.

Now, the next person you mentioned was accused No. 3?

---Yes.

Where did you see him on the 21st March? --- I saw him on the inside of the Police Station yard.

On which side of the Police Station yard? --- He was in front at the small gate of the Police Station.

What time was it that you saw No. 3 there? --- It was between ten and eleven o'clock.

BY THE COURT:

I think I have heard enough about No. 3 Mr. Prosecutor. You need not go into any details, but leave it to the Defence.

BY THE PUBLIC PROSECUTOR:

As Your Worship pleases.

Examination/....

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

And No. 43 accused, where did you see him on the 21st March? --- At first I saw him amongst the crowd, and at a later stage I saw him in the charge office.

When you saw him amongst the crowd what time was that? --- I do not remember what time it was when I saw accused No. 43 amongst the crowd.

On which side of the Police Station did you see him? --- He was in the vicinity of the small gate when I saw him.

BY THE COURT:

Was that in Zwane Street? --- Yes, Your Worship.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

And what was he doing there? --- He was doing nothing. He was amongst the crowd.

Are you able to tell the Court whether this was a long time or a short time before the shooting that you saw No. 43 there? --- It was just a short time.

And when you saw him in the charge office, what was he doing? --- He was sitting down when I saw him.

Did you speak to him at all? --- No, I did not speak to him.

Do you know how he came to get into the charge office, i.e. accused No. 43? --- No, I do not know.

Then you mentioned that you attended a parade at Vereeniging, and that was on the 19th of May. Now, what were you asked to do when you were brought on to the parade at Vereeniging? --- I was asked to point out persons whom I saw at the Police Station on the 21st March, 1960.

Did you point out anybody? --- I did not point out anybody there.

Thank you, Your Worship.

Cross-examined/....

CROSS-EXAMINED BY MR. UNTERHALTER:

Constable, you had an opportunity of looking among the crowd for some little while before the shooting? --- Yes, I had been looking amongst the crowd since that morning.

Can you tell us whether you perhaps noticed any Europeans in the crowd itself? --- No, I did not see them.

Do you know they were near the clinic wall opposite the double gates of the Police Station on the western side? --- Yes.

Did you at any time perhaps notice any Europeans on that wall, on the top of it? --- At the spot where I was standing my view was obstructed, and I could not see on the other side.

So as far as you are concerned you saw no Europeans on that wall, because you could not see? --- Yes, I did not see.

About what time did you see accused No. 43 in the charge office? How soon after the firing? --- I cannot recall the actual time, but it was between perhaps three or four, or it was approaching those hours.

Thank you, Your Worship.

NO CROSS-EXAMINATION BY ACCUSED NOS. 1, 3, 4, 8, 38 AND 39.

BY THE COURT : TO ACCUSED No. 3:

Accused No. 3, just a moment. I interrupted just now when the Prosecutor was leading evidence about your activities there. That does not mean that you may not ask any questions. --- I have no questions, Your Worship.

NO RE-EXAMINATION BY THE PUBLIC PROSECUTOR.

Elias/....

ELIAS MVALA, duly sworn, states: (Witness speaks Xhosa).

EXAMINED BY THE PUBLIC PROSECUTOR:

Are you a Bantu Constable in the Vereeniging Municipality? --- That is correct.

Have you been working for the Municipality for the past nine years? --- That is correct.

And have you been living in Sharpeville Native Township for approximately ten years? ---Yes.

Do you remember the day of the shooting, i.e. the 21st March, a Monday? --- That is correct.

Before that day did you ever receive anything in the post which mentioned that day? --- On the Sunday I was woken up by people.

What time was it? --- I think it was about a quarter past twelve at night.

How were you waken up? --- These people knocked on the door as well as on the windows.

What were you doing when this took place? --- I was asleep.

And what did you do when you heard the knocking? --- I then opened for them.

And what did you see when you opened the door? --- I saw many people.

Did you see anybody you knew? --- Yes, I only recognised one amongst the lot.

Did this man speak to you at all? --- He did speak to me. He said "Let's go!". I then asked him "Where are we going to?".

And when you asked him "Where are we going to?" --- When I asked this person "Where are we going to?" he did not reply to that. Instead he said "Africa! Iswe Lethu!".

Will/....

Will you be able to point out this man again if he is here? --- I will be able to point him out if he is present.

Will you stand down and have a look through the court room to see if that person is present today? --- Yes. (Witness stands down and points out accused No. 75).

BY THE COURT: TO ACCUSED NO. 75:

Is his name Paulus Molele? --- Yes, Your Worship.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Were you satisfied with his reply to your question, i.e. "Africa! Iswe Lethu!"? --- I was not satisfied with that, but then they requested me to come with them. I did not want to.

Did you say you did not want to? --- Yes.

And what did you do then seeing you did not want to go with them? --- I left my yard and went into the next yard to mine. There were many people outside, and my neighbours too were being woken up.

What did you do nextdoor? --- When these people who were waking up people left, I then hid myself amongst the trees.

What were you hiding from? --- Because I did not want to go with them.

Why hide yourself? Surely you could say "Look, I am not going with you", and stay in your house? Why did you hide? --- I could not have said that to them, seeing that these people were fighting.

How long did you hide yourself? --- I only hid myself there in that spot until they went round the corner. After they had disappeared round the corner I then went back into my house.

And/....

And were you disturbed at all again during the night?

--- I do not understand when you ask what disturbed me, because I had already been disturbed by these people who woke me up, and I went back home.

BY THE COURT:

What happened during the rest of the night? --- At two a.m. I then left for the office.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Was it your time to go on duty? --- Yes, I was suppose to go on duty at six a.m. in the morning.

Then why did you leave so early? --- I was afraid that perhaps I would be late for work, and I could not get fast asleep after I had been woken up.

What time do you usually leave for work when you have to go on duty at six a.m.? --- I usually leave my home at five o'clock or half past five if I go on the six o'clock shift.

What was it that you were afraid of might make you late on this occasion? --- After I had been woken up I then realised that sleep will not come again, and so then I dressed myself.

Did anything happen on your way to the office? --- I did not see anything. I then left.

Where are the offices at which you assumed duty that morning? --- At the gate there is one entrance through the location.

Do you know the name of the street in which those offices are? --- No, I do not know it.

Do you know where the main beer hall is opposite the Municipal Offices? --- It is just at that spot where I had to be on duty, and where I ^{work} went.

By/....

BY THE COURT:

Opposite the big brewery? --- Yes, those offices opposite the big brewery.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Until what time did you stay on duty there? --- When I got there at two a.m. I then went to sleep. At half past five I was then woken up by the other person who works there, and I then went on duty.

Do you have to stand at that gate outside there, where that little chain is that they put up and down across the road? Is that where you have to be on duty? --- Yes.

Did you see any people going to work that morning? --- At that time of the morning there were people who at certain intervals walked past there.

Now, this man Paulus Moleko, did you know him before the night that you saw him, i.e. accused No. 75? --- Yes, he is a person I know very well there in the location.

Were you present when he was arrested? --- I was not present when accused No. 75 was arrested.

Thank you, Your Worship.

CROSS-EXAMINED BY MR. UNTERHALTER:

But you saw him on the day that he was arrested, did you not? --- I saw him after he had been arrested.

And was it at the Municipal Offices that you saw him when he was brought there? --- I saw him there at that spot where I stand on duty. He was brought there by the detectives.

And it was there that you made a statement? Is that not so? --- I made my statement at the Police Station.

At the gate where you usually stand, were you not asked by one of the African detectives who had No. 75 with

him/....

him "Is this the man about whom you told us?". --- Yes, when accused No. 75 was brought there to the gate I was asked that.

And you knew that he was then under arrest, did you not? --- At that time I did not know whether he was under arrest.

Now, the statement that you made to the Police was read over to you and interpreted back to you? --- Where, at the Police Station?

Wherever it was! --- I made a statement at the Police Station and that was the end of it.

But it was read over to you and interpreted to you, so that you could understand what you had said? --- Yes, that is correct.

You live in one of the side-streets of the location, do you? --- Yes.

Now, when you were disturbed and you went to the door and you saw a whole lot of people outside, it was late at night? --- That is correct yes.

Now, how do you know that accused No. 75 was among the people whom you found outside your house? --- It was because he spoke, and I recognised his voice. I thereafter looked at him, and that is how I managed to find out that he was there.

So according to you you first recognised him by the sound of his voice? --- Yes, and thereafter I recognised him again by seeing him.

Now, how could you recognise him by sight so late at night in the darkness? --- When I went out of the door he was just as near as where the Interpreter is from me. That is how I came to look at him at close quarters.

BY THE COURT:

About one pace away. There is about one pace between/....

between the two of you.

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

Now, it is correct is it not that the side-streets of the location are unlit at night? --- Yes, that is true, the are unlit.

Now, even if you were only one pace away from him, how could you possibly make out his features in a dark street at night? --- The second house from the corner, there is a street lamp. You can see a person, i.e. if he is not too far from you.

Well, approximately how far was that street lamp from where you and accused No. 75 were standing when you were close to him? --- The lamp was as far as from where I stand to the corner of the court room, the lefthand corner. (Witness indicates about 12 to 13 paces).

Was that light burning? --- I did not notice it.

Well, if the light was not burning why do you use that as an explanation for being able to see accused No. 75? --- I did not say that lamp was burning, that street lamp.

Then by what source of light were you able to see the features of No. 75 accused? --- I was able to recognise the features of accused No. 75 by the light of my house, because my wife got up and she lit the candle.

Well, if that is so why was it necessary for you to make any reference at all to the street light a few moments ago? --- I gave that example in reply to the question which was put to me.

But you knew quite well that I wanted to know from you what light had made the face of accused No. 75 visible to you, and from your answer it would seem that that light was the street light? You did not make any mention of your wife having/....

having lit something in her home. Now, will you please explain that? --- I am supposed to answer your question if you ask it.

Is that all you want to say in reply to what I put to you a little while ago, or in reply to the question I have just put to you? --- There is nothing I want ^{to add} to my answer. I have already replied to what I was asked.

What is the name of the street in which you say this street lamp stands? --- Ghabasoane Street.

Now, you say this lampstands in Ghabasoane Street, and what is the other street that forms the corner with it? --- That street has no name.

Is it the street that has no name in which your house is? --- Yes.

And what is the number of the house in which you live in this unnamed street? --- 229.

And the street lamp, whether it was burning or not, is approximately twelve paces from the front gate, is it, of your house No. 229 in the unnamed street? --- Yes, that is correct.

Now, did you find accused No. 75 on the pavement outside your house, or in the street outside your house? --- Just outside the kitchen door was where I found him when I came out.

Now, what light did your wife ignite? Was it a candle, or did she switch on an electric light? --- A candle.

In which room did she light this candle? --- In the kitchen.

Now, did she come in from another room and light a candle which she found in the kitchen, or did she bring in a candle from another room? --- When I opened for these people

I/....

I saw the candle burning and my wife had it there with her.

Did you actually see her or hear her light the candle in the kitchen? --- I only saw her in possession of the candle, holding the candle.

Who got up first, you or she, when the knocking was heard? --- I got up first.

When you got up did you light a candle in your room, or did you get up in your room in darkness? --- I got up in the dark and went to peep and see who these people were. I then discovered that these people were saying that if I did not open the door they would burn me inside the house.

Now, where did you go to peep when you got up in the darkness? --- In the door itself there is a small hole through which I looked.

The door of which room? --- The diningroom door.

Now, when you peeped through the diningroom door towards what did you look? --- Just in front of the yard, i.e. when I peep through that hole.

Now, when you peeped through that hole did you see anything? --- I saw people. I then ran into the kitchen to open for these people, seeing that they were knocking there; they were fighting.

When you were woken up by the noise did you know whether your wife had also been woken up by the noise? --- That I do not know.

Now, does the kitchen door look out on the same yard as the diningroom door through which you were peeping, or on a different part of the standon which the house is situated? --- One door is facing towards the back of the stand, and the one is facing towards the front of the stand. They are facing in opposite directions.

Now/....

Now, the diningroom door, does that face towards the back, and does the kitchen door face towards the front, or how?
 --- The diningroom door is facing onto the front premises of my yard, and the kitchen door is facing towards the back portion.

Did you at any time hear any knocking on the diningroom door? --- On the arrival of these people I heard them when they knocked on all angles of the house, i.e. on the doors as well as on the windows.

COURT ADJOURNS.

COURT RESUMES:

ELIAS MVALA, under his former oath, continues:

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

You told us that when these people arrived you heard them knocking on all doors round the house? --- That is correct.

Including the diningroom door in the front? --- That is correct, as well as on the windows.

What made you decide to open the back door, i.e. the kitchen door, rather than the front door, i.e. the diningroom door, since there was knocking on both? --- The thing which made me open the kitchen door was that the knocking was harder at the back than on the diningroom door.

As I understand you you were peeping through the hole in the diningroom door, and then you left that to go and open the kitchen door because the knocking was harder? --- That is correct.

Now, you had been standing in darkness as you looked through the hole in the diningroom door? --- That is correct.

Now, as you moved from the diningroom door to the kitchen door was it also still in darkness? --- It was still in/....

in darkness.

8 And as you opened the kitchen door was it still in darkness? --- At the stage when I opened the kitchen door I then saw that there was light, but I cannot say when my wife put up that light.

Now, you say when you opened the door you saw there was light. From whereabouts was this light coming? --- From the kitchen of my own house.

Was the candle being held in your wife's hand, or had it been placed on a table? --- She held it.

And when you were standing in the doorway where was she with the candle? --- When I opened the door I saw that there was already light in the kitchen. I cannot say whereabouts did my wife stand.

I take it therefore she was not standing immediately behind you with the candle in her hand when you opened the kitchen door? --- I cannot say.

Well, if that is so how do you know that your wife was holding the candle in her hand and that the source of light was not from a candle placed on the table? --- When I left and went outside it was then that I saw my wife holding the candle in her hand. I then requested her to close the door.

Now, as you opened the door did the light fall on the faces of the people standing outside the door?)--- Yes, when there is light in the kitchen, immediately one opens the kitchen door then the light is shown onto the people who are standing outside.

And as you opened the door did you hear No. 75 speaking to you? --- He spoke to me after I had gone out of the doorway, and he said to me "Let's go!".

Now, as you opened the door did you see him standing there/....

there? --- Standing there in the doorway as I opened the door, and that is why I saw him.

And the light fell on his face and according to you that enabled you to recognise him? --- First I recognised him when he spoke to me, i.e. by his voice, when he said "Let's go!". Immediately thereafter the light shone on him, and I was then able to recognise him.

But as soon as the door opened did not the light shine immediately on his face so that you could recognise him at once? --- There were many people outside. I then recognised him, his voice, when I looked at him.

Please answer the question? I am going to put it to you again. When the door opened and the light fell on the faces of the people outside the door, did not you recognise him immediately in that light? --- I saw him and recognised him when I came out of the house. It was then that I saw him and recognised him by his voice.

Are you saying to His Worship that where you stood inside your kitchen, when the light fell on the persons outside the kitchen you did not immediately recognise him? --- Immediately I opened the kitchen door I did not see accused No. 75 at that stage, because there were many people outside.

So you did not see him as you stood in your kitchen? You then left your kitchen and you went outside? --- Yes, I saw him when I came out of the door.

Now, how many steps out of the door did you come before you saw him? --- My kitchen door is a stable door, so I while I was still holding the lower portion of it, and after I had perhaps walked one or two paces, but still holding on to the door before I could close it, it was then that I saw him and recognised accused No. 75.

And/....

And after you had taken your one or two paces away from the door, how many paces away from you was accused No. 75 when you saw him? --- He was about the distance where the Interpreter is seated.

Roughly one pace? --- Yes.

Now, as you stepped out of the door and you were one or two paces away, were you standing in line with the door, ~~two~~ immediately one or two paces away from it, but in front of it? --- Slightly to the side of the door.

But still in the doorway itself? --- Yes.

Now, standing in that position, did not you come between the light from the kitchen and the crowd outside, so that you prevented the light from falling on the crowd and thus prevented yourself from seeing their faces clearly? --- No, that is not correct. I was standing slightly towards the door, or on the side of the doorway, but still the light was reflected.

Now, what was it that first enabled you to recognise accused No. 75? The sound of his voice or the sight of his face? --- I first heard his voice.

Now, is it not possible that you are making a mistake, and that you imagined that it was the voice of No. 75, and in the dim light coming from the house you thought you recognised No. 75, whereas in fact it was somebody altogether different, who might have had a similar voice? --- I saw him clearly in view of the fact that I knew him.

I am putting this to you because accused No. 75 is going to deny that he was at your house that night, and that he is the person whom you say spoke to you in the way you have deposed to in your evidence? --- Even if he denies it I say he did all that.

You had no doubt about it that night? --- No, I did not/....

not have any doubt.

You knew where he lived? --- I know.

BY THE COURT:

Did you then know where he lived, at that time? ---

Yes, I have known him for some time from the location there,
Your Worship.

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

And you knew where he lived on that particular
occasion, the 21st March, the early hours of the morning? ---

On this particular day I did not know where accused No. 76
lived, and I also did not know where he woke up before he came
to my house.

Did you know where he worked? --- No, I do not know.

No, did you know where he worked at that time? ---

I knew that he worked at the G.P.O.

And you knew his name? --- I know his name.

BY THE COURT:

No please, did you know it at that time? That night
did you know the name of the man? --- I knew his name from long
ago.

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

Of course you did! He worked with you previously
in the Municipal Police Force, did he not? --- Yes, that is
correct.

You were very angry were you not, at being woken
up at that unearthly hour and dragged out of your house? ---
Yes.

Did you do anything about reporting this fact, i.e.
that this man was among a crowd of people who had woken you
up as you have described? --- Yes.

What/....

What did you do? --- I went and reported the matter to my Superintendent.

Did you give the name of this man? --- Yes, I did.

Did you give the place of his employment? --- Yes.

To whom actually did you give this information, the Superintendent himself personally, or one of his clerks? --- I told the Senior Sergeant, and then he said I should go and make a report at the Police Station.

When you talk about the Senior Sergeant, do you mean the Senior Sergeant of the Municipal Police? --- Yes.

Is he an African? --- Yes, he is.

What is his name please? --- Piet Kok. He is a Coloured.

And did you then go to the Police Station and make a report as Piet Kok suggested to you? --- I went there on the 22nd to make my statement.

And did you there give the name of accused No. 75 as the person who had disturbed you on the early morning of the 21st March? --- Yes.

Did you describe to Piet Kok and the Sergeant and the man at the Police Station what happened to you in similar terms to how you have described it here to His Worship today? --- I went alone to the Police Station.

I did not ask you who accompanied you. Perhaps you have not understood my question. I asked you whether at the Police Station you told a person there what had happened to you in similar terms to what you told Piet Kok, and to what you told His Worship in your evidence-in-chief? --- I was not asked many questions at the Police Station. There I told them that I had been woken up at that time. I made mention of the time.

Did you give to the man at the Police Station the name/....

name of accused No. 75 as the person who had spoken to you? ---
Yes, I told him.

Were you asked to say where this man worked? --- I
was asked whether I knew where this person was employed, and
I told him that I knew.

And did you tell them that he was employed by the
General Post Office at Vereeniging? --- I said he was employed
at the G.P.O. in abbreviation.

Did they not ask you which branch of the G.P.O.? ---
No, I was not asked which branch of the G.P.O. he was employed
at.

Is it possible for you to tell the Court why, as you
gave these reports on the 22nd March, it was only on the 11th
June of this year that accused No. 75 was arrested? --- No, I
cannot say.

Do you know the name of the man at the Police Station
at Sharpeville to whom you gave your statement on the 22nd March?
--- I do not know his name, but he is a European detective.

Now, when accused No. 75 was arrested and he was
brought past the gate where you usually work, you went on with
these people to make a statement at the Sharpeville Police
Station? Is that correct? --- No.

Well, when he was brought past did you not go with
them to the Police Station, if not to make a statement at least
to go to the Police Station? --- No, I did not go with them.

Well, I may perhaps have misunderstood you, but when
I opened my cross-examination this morning I thought that you
had said that when he was brought, i.e. accused No. 75 was
brought to the Municipal Offices where you usually stand, you
went on to the Police Station? I put that question to you in
connection with the statement I thought you had made at the

Municipal/....

Municipal Offices.—When accused No. 75 was brought to me the first time at the gate where I usually stand when I am on duty, he was in the company of two detectives, who were travelling in a car. They were sitting in the car when I was asked if this was the person, and I then said "Yes, that is the person", but I did not accompany them to the Police Station at that stage.

And when he was brought to you in the company of the detectives, was it not perhaps at the Municipal Offices then that you made some statement in connection with accused No. 75 on that occasion? — They only came to the gate where I was. They only asked me if this was the man, and I said yes. That is all they asked me at that stage.

BY MR. UNTERHALTER:

Your Worship, I don't know what the Court's record is? I am speaking from memory, and I think I put it to him correctly, but perhaps the Court might check it. It was at the opening of my cross-examination.

BY THE COURT:

I have merely got a note that he was brought to him at the place where he was on duty, and "I made my statement at the Police Station", without anything connecting it. I may not have noted everything.

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

Do you remember my asking you also if your statement was read over to you? — Yes, I do remember it.

I think you agreed that it was read over to you? — That is correct.

Now, when you answered that question to me earlier were you intending to refer to the statement you made on the 22nd March, or a statement that you made later after accused

No. 75/....

No. 75 was arrested? --- I was referring to the statement I made first on the 22nd March.

Is it not correct that when you made the statement to the Police you first claimed to recognise the accused by his voice, and then altered it to say that you recognised him just generally? --- No, I did not say that.

Well, when you made your statement to the Police did you say you recognised him by his voice, or you recognised him by sight, or you recognised him generally? How did you put it to the Police when you made your statement? --- I said I recognised accused No. 75 by his voice, as well as by seeing him on that particular day.

And are you absolutely definite that apart from the statement made on the 22nd March, you gave no further statements to the Police, i.e. written statements to the Police? --- There is no other statement. That is the only statement I made at the Police Station.

So if there is evidence that you did give a written statement at the time of the arrest of accused No. 75 on or about the 11th June, that would be wrong? --- Yes.

Now, you told His Worship that the street light is a distance from where ^{you stand} to the corner of the court room, which has been measured at about 12½ paces? --- That is correct.

Will you not admit that in point of fact this street lamp is more than twice that distance away from your door, a distance of 30 paces? --- That is not so, although I did not pace that distance, but I estimate it to be the distance I have indicated to the Court.

Well, if in fact evidence is given that the paced distance from your kitchen door to that lamp is a distance of 30 paces, are you going to deny it? --- I would not deny that because/....

because I personally did not pace that distance.

Will you agree that in the neighbouring stand there are trees and that they obscure the light that comes from that street light into your yard? --- There are trees but I do not know whether they obstruct the light from shining onto my premises.

Your wife is available to corroborate your evidence about the night in question, and in particular the candle that you have spoken about? --- She is not available seeing that she is not well; she is not fit.

She lives in your house at Sharpeville, does she not? --- She lives there, but I say she is ill, and she cannot come to Court.

Well, is she lying in bed or is she walking about the house? --- I left her in bed, i.e. lying in bed.

BY THE COURT:

Today? --- Today, Your Worship.

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

She could come on some other occasion I presume? --- There is no evidence she can bring before this Court. She is a woman and she was frightened on that day. What will she say to this Court?

And Mr. Piet Kek I take it is available to confirm that you made this report to him on the 22nd March? --- Yes, he is available. He is at work, and he can be obtained if he is required, but I do not know whether he would still be able to recollect what I told him.

And if necessary do you think you could point out -- I am not suggesting on an identification parade -- the European detective to whom you made your statement at the Sharpeville Police Station on the 22nd March? --- I will be in a position
ytc/....

to point him out. I knew him.

You of course attended no identification parade? ---
I was once taken to Beksburg.

Yes? --- I did not know any person, and I could not
point out anybody.

When you went out of your house were you fully
dressed or did you have your sleeping clothes on? --- I was
wearing my pyjamas when I got up. I only put on my overcoat,
as well as my shoes.

And was it shortly after that that you were able to
come back into the house, when the crowd left? --- When I came
out of the house I was wearing my pyjamas as well as my over-
coat and shoes, i.e. when I was taken out of my house.

You have already said that. When you went out was
it shortly after that that you were able to come back? You said
that you hid, and then you came back. Well, was it shortly
after that that you returned? --- That is correct.

And when you first stepped out and saw accused
No. 75, were you already wearing your overcoat and your shoes,
over your pyjamas? --- When I had been ordered to come out of
the house, and when I came out at that stage I was already
wearing my pair of trousers, my shoes, as well as my pyjamas.

So did you go back into the house to get an overcoat
before you rejoined these people outside? --- At the time when
I went to open for them I was already wearing my shoes and my
trousers.

And what about your overcoat? --- At the time when
I went to open the first time I was only wearing a pair of
shoes, and the trousers, and I was not wearing the overcoat.

And when you stepped outside and saw accused No. 75
were you still dressed in the same way? --- Yes.

Then/....

Then how did it come about that you got an overcoat on your person? --- That was after I had hidden myself there in the trees. Thereafter I then returned to my house and I then put on my overcoat, i.e. after these people had left.

And did you then try and get back to sleep and find that you could not? --- Yes, I could not sleep at all.

I rather thought from what you told us earlier that when you went out to obey this crowd you had the overcoat on? Is that not what you intended to say? --- No, that is not so.

Well, when you came back after hiding why did you have to put an overcoat on? The danger was past! --- I did not know that the danger had passed.

During the next day were you at any stage at the Sharpeville Police Station? --- I was there at the Police Station on the 22nd March, when I went there to make my statement.

You were not there on the 21st and roundabout the time of the firing, or a little after that? --- The day of the shooting I was there at the gate.

BY THE COURT:

Do you mean at the gate near the Municipal Offices?

--- Yes, Your Worship.

(No further questions by Mr. Unterhalter).

NO CROSS-EXAMINATION BY ACCUSED NOS. 1, 3, 4, 8, 38 AND 39.

RE-EXAMINED BY THE PUBLIC PROSECUTOR:

You say you attended an identification parade at Boksburg? Is that correct? --- Yes.

Can you remember the month of this parade? --- I do not remember it.

New/....

Now, when you made your statement I take it it was made at the Sharpeville Police Station, i.e. the one Counsel has been referring to so often? --- I made my statement at the Sharpeville Police Station.

In the charge office or in someother room where the detectives interview people? --- In the detective's office.

And who all werepresent in that room whilst you were making your statement? ---It was only the twe of us, myself and that European detective.

No. 75 was not perhaps with you, listening to you making this statement? --- No, accused No. 75 was not there.

Thank you, Your Wership.

CORNELIUS JOHANNES SPIES, beëdig, verklaar:

VERHOOR DEUR DIE PUBLIEKE AANKLAER:

U is 'n Konstabel in die Suid-Afrikaanse Polisie gestasioneer te? --- Te Eleeufontein.

Op die 21ste van Maart hierdie jaar was u te Springs gestasioneer? --- Dit is reg.

En op die 21ste van Maart het u met 'n Polisie-eenheid vanaf Springs na Sharpeville naturelledorp gekom? --- Dit is reg.

Ontrent hee laat het u eenheid by Sharpeville Polisie-stasie aangekom? --- Ek is nou nie meer so seker nie, maar ek meen dit was kwart-veer-twaalf.

En was daar enige Banteeskare wat die Polisiestasie omsingel het toe u daar gekom het? --- Ja, daar was 'n massa Bantees.

Was u in wathulle neem 'n opruktrek? --- Ja.

Het/....

Het u enige aanmerkings geheer terwyl u voertuig deur die skare mees beweeg en by die Polisiehek in te gaan? --- Daar was se 'n geweldige lawaai en geraas, en dan het ons die uitroep "Afrika!" geheer.

Het u enige weerde geheer wat gesê is behalwe vir die wat u nou reeds geneem het? --- Nee, ons kon nie. Die lawaai was te groot.

En nadat u uitgeklim het en binnekant die Polisieheining? --- Ja, daar is baie geskree en geskel, in natuurlik Banteetale wat ek nie verstaan nie.

En was daar enigiets wat u wel verstaan het, en wat miskien in die amptelike tale gesê is? --- Ek is nou nie seker nie, maar daar was geskree op ons en gesê "Vandag sal ons julle almal deedmaak, julle fekken Beere!" Daar was op stadions met messe na ons gewys, en na ons gespeeg.

DEUR DIE HOF:

Met wat is daar na julle gewys? --- Met messe, Edelagbare.

VERHOOR DEUR DIE PUBLIEKE AANKLAER VERVOLG:

Op watter manier is die messe na u gewys? Kan u miskien die bewegings of wat u gesien het vir die Hof demonstreer? --- As hulle se naby die draad gestaan het het hulle die messe se in die hand gehad en se na ons gewys. (Getuie demonstreer aan die Hof).

Was enigiets gesê tegelykertyd met die toon van die messe? --- Ja, "Vandag maak ons julle almal dood, julle "white bastards!"

U het nie getuienis gegee voor die Regter toe hy hier was in verband met die Kommissie nie? --- Nee.

Nou, ek wil vir u bewysstuk 13 teen. Dit is 'n lugfete van die Sharpeville Polisie-stasie. U sal sien dat heel/....

heel bo is die neerdekant, aan die linkerkant is die westelike kant waar die groot hek is waar die voertuie ingekom het op die grasperk, en heel onder is die suidekant. --- Ja.

Neu, was u nog daar toe Kolenel Pienaar aangekom het, en nadat hy aangekom het 'n bevel gegee het dat die Polisie lede in gelid mees staan? --- Ja, ek was daar.

Neu, u kan die grasperkie sien daar aan die westelike kant. Was u op daardie gedeelte, aan die westelike kant? --- Ek was aan die westekant ja, aan die suidekant van die paadjie wat daar na die Polisiestasie toe loop.

Net kerk voor die Polisie gevuur het, wat het gebeur? Wat was die eerste wat daar gebeur het? Ek praat van net voor die Polisie gevuur het? --- Daar het 'n - ek weet nie of ek my verbeel nie, maar ek het so half skuins teruggekyk, en aan my linkerkant was daar 'n sagte ontploffing gewees, soos 'n .22 geweer.

Vanwaar het dit gekom? --- Dit het gegaan asof dit vanaf die skare gekom het.

Heveel ontploffings het u gehoor? --- Ek het een gehoor.

En daarna? --- En net daarna het die klippe op ons begin reën. Dit het ook vanaf die skare gekom.

Was u deur enige van die klippe getref? --- Nee, maar die kôrel agter en half langs my was getref.

En het u opgelet wat die toestand van die draadheining was op daardie tydstip? --- Die skare was so verweed dat hulle daardie draadheining begin buig het.

Vanwaar u gestaan het kon u aan die suidekant sien, aan die suidekant van die Polisiestasie? --- Ek kon nie heeltemal suid sien nie. Ek kon natuurlik net 'n deeltjie sien. My aandag was meer gevestig op die skare voor my.

Het/....

Het u miskien opgelet hoe die draadheining aan die suidekant gelyk het? --- Nee, ek het nie daar opgelet nie.

En daarna.....

DEUR DIE HOF:

Mnr. die Aanklaer, aan watter suidekant? In Zwane-straat, of suid van die greet hek, of wat?

DEUR DIE PUBLIEKE AANKLAER:

Ek is jammer. Ek bedeel die suidekant van die Polisiestasie, en nie suid van die hek nie. Die suidekant in Zwanestraat. --- Nee, ek het nie so opgelet daar nie.

DEUR DIE HOF:

Dit is die eerste keer wat ek hoor dat daar 'n bewering is dat daar iets met die draad aan daardie kant verkeerd was. Dit is die wat ek so verbaas is.

DEUR DIE PUBLIEKE AANKLAER:

Nee, ek verstaan waar die fout ingekom het, Edelaagbare.

VERHOOR DEUR DIE PUBLIEKE AANKLAER VERVOLG:

U maandag was beperk tot die suidelike gedeelte van die heining aan die westekant van die Polisiestasie? --- Ja.

En ^{wanneer} watter het die Polisie gevuur? Op watter stadium in vergelyking met die klippe? --- Die klippe, toe dit neersak, toe het ek geheel hulle begin vuur.

Na die dag op Sharpeville het u 'n uitkenningsparade bygeween? --- Ja.

Was dit die een op Boksburg? --- Ja.

Is dit die enigste parade wat u bygeween het? --- Danhet ek weer een bygeween 'n rukkie later hier op Vereeniging.

Neu, die parade te Boksburg was op die 19de April gehou. Nadat u na daardie parade gebring is wat is u gevra om te doen? --- Ek is gevra om uit te ken van die persone wat op

Sharpeville/....

Sharpeville gewees het.

En het u enige persone uitgewys? --- Ek meen ek het twee uitgewys.

Sal u in staat wees vandag om daardie twee persone weer uit te wys as hulle teenwoordig is? --- As ek hulle sien meen ek sal ek dit weer kan doen.

Sal u net afstaan en deur die Hof kyk en sien of daardie persone teenwoordig is asseblief? --- Ja. (Getuie staan af en wys uit beskuldigdes nrs. 3 en 4). Ek is nie so seker van hierdie een nie.

DEUR DIE HOF:

Jy is nie so seker van watter een nie? --- Van hierdie een nie, d.i. nr. 4.

VERHOOR DEUR DIE PUBLIEKE AANKLAER VERVOLG:

U het nou beskuldigde nr. 3 uitgewys, en daarna het u na beskuldigde nr. 4 gewys en gesê u is nie seker van daardie een nie? --- Dit is reg.

Was hulle gesien in die nabyheid van die Polisie-stasie op daardie dag? --- Ja.

En die parade op Vereeniging, het u enige persone daar uitgewys? --- Ek meen ek het 'n Bantoevrou daar uitgewys.

Die Kreen stel nie belang in daardie Bantoevrou nie, Edelagbare!

KRUISVERHOOR DEUR MNR. UNTERHALTER:

Mr. Spies, when you were standing in the Police Station grounds you were facing west? --- Dit is reg.

When you heard this dull .22 revolver shot or pistol shot, you say it came from somewhere on your left? ---

Ja, dit is reg.

Now, immediately to the south of the Police Station,

if.....

if you look at Exhibit 13, is the street known as Zwane Street?

--- Dit is reg.

From what you remember of the direction from which you heard the sound coming, was it from somewhere in that direction? --- Nee, soos ek gesê het op daardie moment het ek half teruggekyk. Dit meen dit was ontrent hierdie rigting, dit was meer noord-wes. (Getuie dui die rigting aan).

DEUR DIE HOP:

Kry nou eers jou rigting daar? --- Edelagbare, ek het my rigting reg.

Jy wys nou suid-wes. --- Dit is my noordekant hier.

En hier onder by jou onderste hand is suid? ---

Ja.

En wes aan die linkerkant, en oos aan die regterkant?

--- Ja, maar daar. (Getuie dui aan).

O ek sien. --- Dit is noord-suid.

Jy was half gedraai sê jy? --- Ja, na agter.

En die geluid kom van die noord-westekant af? --- Ja.

KRUISVERHOOR DEUR MNR. UNTERHALTER VERVOLG:

Are you then saying that at the time that you heard that shot your back was really to the south-west corner of the Police Station? --- Ja, min of meer.

How did it come about that you had your back turned at that time to that portion of the crowd? --- Ons was in drieë ingeval. Ons was daar in drieë ingeval gewees, en ek het na my makker gekyk half agter my. Ons het nog gepraat maar ek kan nie onthou waareer ons gepraat het nie.

Were there then three lines of Police drawn up? ---

Ja.

Was that immediately before the firing, just a few seconds/....

seconds before the firing? --- Ja.

We have had evidence from others who told the Court that there was a single line of Police? Is that not correct?

--- Ons was eers in enkel gelid, maar - ek weet nie wie is die offisier nie - hy het gekom en hy het gesê ons moet in drieë inval, en toe het ons in drieë ingeval.

One Constable gave evidence and he spoke to there being two lines of Police. Would that also be wrong? --- Ek weet nie. Sower ek weet, daar waar ek gewees het was ons in drieë, en ons was nie twee of enkel gelid nie.

Does that mean Constable that roughly the position where you were, i.e. south of the path, there were three lines of Police one behind the other, and the three lines were facing west? ---Ja.

If a third line had to fire Constable, would not that place the two lines in front of them in some danger of being shot in the back? --- Ja.

And was it with that formation that the Police round about you, south of the path, started to fire? --- Ja, sommige van hulle het tussen ons ingedruk. Hulle het nie daardie formasie gehou nie.

You only heard the one shot? --- Ja. Dit nag meer wees, maar ek kan net een onthou op die oomblik. Ek kan my net voorstel van een skoot.

If a second somewhat louder shot had come from the crowd I suppose you would have noticed it as something rather extraordinary? --- Ja, dit is moontlik.

Can I take it Constable that having turned round and put your back to a portion of the crowd, you did not regard the crowd as terribly dangerous at that stage, otherwise you would not have showed your back to them? --- Die skare was

elke/....

elke oomblik gevaarlik.

Well, if that is so, how did it come that at any stage you showed your back to them? — Jy kan niks doen voor jy nie 'n bevel kry nie, of as jy sien jou lewe is in gevaar dan kan jy natuurlik jou diskresie gebruik, maar op daardie moment het my maat hier agter my iets gesê en ek het omgedraai.

Constable, I want to put it to you that even if you heard the sound of your friend's voice and you turned towards him, you would only have done that if it was still safe to show your back to a portion of the crowd? Do you agree with that or not? — Nee, ek kan nie daarmee saamstem nie. As ek heeltemal omgedraai het, maar ek het net so skuins gedraai.

You don't alter your evidence that in fact your back was turned to the south-west corner where the crowd was assembled, or portion of the crowd was assembled? — Ja, as ek skuins draai is hy nes outematies soontoe.

Now, did you notice this crowd on the south side of the western fence, i.e. south of the gate, and how they were standing? Were they standing quietly or not? — Nee, hulle was uitbundig. Hulle het hulle arms in die lug gegooi en hulle het daar uitroep geuiter. Dit wil sê die deel wat ek kon sien, want die Saracens was ook aan ons linkerkant.

Did you not notice quite a few people standing at that portion of the fence with umbrellas in their hands? — Die wat ek kon sien, van hulle het kleries gehad en party het klippe gehad, en hier reg voor ons was van hulle gewees wat nesse gehad het.

Do I understand you to say that as far as you are concerned you saw none with umbrellas? Did you see any members of the crowd with umbrellas? — Nee, ek het nie sandrele opgemerk nie.

Deur/....

DEUR DIE HOF:

Ons meen oop sambrele? --- Nee, ek het geen oop sambreel gesien nie, Edelagbare.

GRUISVERHOOR DEUR MNR. UNTERHALTER VERVOLG:

I want you please to look at Exhibit 77. Do you notice there are Saracens there? That actually is the southern part of the fence on the western side. Do you recognise the scene? --- Ja.

There are a few people in the front there with open umbrellas, are there not? --- Ja, ek sien dit.

Now, does it help you to refresh your memory? Can you now say whether among the crowd you also saw some people with umbrellas? similar to the photo? --- Ja, volgens hierdie portret, maar dit is so lank terug. Ek kan my net voorstel soos die skare gewees het.

Now, they don't look terribly dangerous, do they, according to the photograph? --- Ja, op hierdie stadium, maar ek skat hierdie foto is heelwat vroeër geneem as die stadium toe hulle begin klippe gooi het.

Mr. Spies, did you perhaps notice some arrests being carried out a little while before the shooting? --- Ja, ek dink daar is een of twee arresteer.

You have said that that photograph shows you the crowd some little while before the stone throwing, and I understood you to agree with me that they did not look a very wild crowd. Now, is it possible that this crowd seemed to get wild to you after these arrests took place? --- Hulle was maar die hele tyd dreigend, maar dit lyk my nadat die arrestasies uitgevoer is het hulle seker maar tet die breekpunt gekom. Ek in elk geval was elke oomblik te wagte dat hulle sou tet 'n breekpunt kom, al was daardie arrestasies nie daar nie.

Did you yourself shoot? --- Ja, ek het geskiet.

How/....

How many shots did you fire? --- Vyf.

With a .303 rifle, was it? --- Ja.

Did you hear an order to shoot? --- Nee. As daar 'n bevel gewees het om te skiet sou jy dit alleenlik kon gehoor het as die Offisier by jou gestaan. het.

How many paces south of the path were you standing?

--- Dit is nou moeilik vir my om te sê. Dit het Maartmaand gebeur. Ek skat dit was omtrent van hier af na daardie muur toe, miskien so 'n rapsie verder. (Getuie dui aan ongeveer 8 treë of verder).

Did you hear an order to load? --- Ja, ons het die bevel gekry om te laai.

How did the words come to you? How did you hear it?

--- Ons het gelaai toe ons die lekasie ingegaan het. Toe het ons gelaai hier by die kantore.

At the Municipal Offices? --- Ja, daar het ons gelaai en daar voor die Polisiestasie het ek gehoor dat hulle sê die kerele moet laai.

Was this when you were already in the Police Station grounds? --- Ja.

Did you not hear the order „Laai vyf rondes!“, or did you just hear the order „Laai!“? --- Ek kan nie sê dat ek gehoor het dat dit is „Vyf rondes laai!“^{die}. Ek het net gehoor „Laai!“.

Did you hear the order to fall in, „Tree aan!“? --- Ja, ons was eers in enkel gelid ingeval toe daardie ander Offisiere ons weer in drieë laat inval.

But you did hear the order to fall? --- Ja.

When these people pointed their knives at you from the fence, was this immediately before the shooting and the stone-throwing, or was it some considerable time before that?

Dit/....

--- Dit het seker goed gewissel van 'n uur na 'n uur-en-'n-half voordat ons geskiet het.

And did they continue to point these knives for a long time after you first noticed it? ---Ja, hulle aangehou. Hulle het nie ent gekry daarmee nie.

Were a large number of them pointing their knives?

--- Ja.

Were these the people close up against the fence?

--- Ja, van hulle, en van agtertee wat jy net die arm gesien het.

How many people would you estimate were pointing the knives, five, ten, twenty? Give us a rough idea? --- Dit mag 50 wees en dit mag 100 wees.

Anyway, whatever the numbers were, they were certainly not just a handful? According to you there were a very large number of people pointing their knives over about a period of an hour? --- Ja.

And it was clearly obvious to you that there was a knife in the hand of each one of these people? ---Ja.

And anyone with eyesight, looking at the crowd, must have noticed over this period of time this very large number of people with knives in their hands pointing towards the Police? --- Ja, die kōrel wat daar gewees het en gesê het die skare is nie gevaarlik nie, ek weet nie wat kan ek sê wat is hy nie. Hy is onverskrokke of soan. Ek self was definitie oertuig daarvan dat hulle enige oomblik tot geweld kan oergaan.

One of your reasons for saying this is because there were such a very large number of people with these knives in their hands pointing towards the Police in the station grounds?

--- Ja, en hulle handelswyse.

Constable, we have had a very large amount of

evidence/....

vidence from innumerable Policemen over many weeks in this court, and we have had all sorts of descriptions given to us, both from these Policemen and from others who were mingling with the crowd, but until this afternoon I have not heard from anybody a description of members of the crowd, of the number that you give, i.e. about 50 or 100, holding knives in their hands and pointing towards you people over such a long period of time. Are you quite definite that this is what you saw?

— Ja, ek sal nie vergroot nie. Ek vertel net wat ek gesien het.

Seeing this did you perhaps turn round in the course of this three-quarters of an hour or hour that you have mentioned, and say to your comrades "Just look how these people are behaving! Do you see them with these knives in their hands pointing to us?" Did you do anything like that? — Ja, ek het tot sover ^{gegaan} vir hulle te sê „Ek wens lievers ek was vandag neg in die kantoor en nie hier nie!”

DEUR DIE HOF:

Maar die kwessie is nou of jy vir enige van jou kollegas gesê het van die messe? — Ja Edelagbare, ek het dit gedoen.

KRUISVERHOOR DEUR MNR. UNTERHALTER VERVOLG:

Is it possible for you today Constable, to give His Worship the names of some of the people to whom you turned round and mentioned this fact? — Nee, daar was so baie om ons ek kan nie spesifiek sê vir wie het ek dit gesê nie.

You were then stationed at Springs, were you not? — Ja.

You came in with a group of men from Springs? — Ja.
Were the Springs men not assembled near you, your own group? Did you not keep more or less together? — Ja,

maar/....

maar op so 'n stadium... jy val in, en as jy 'n bevel kry "Drieë!" dan soek jy nie die greepe, greepe wat gekom het nie, maar jy val in in drieë onmiddellik. Daar was Johannesburg kerele by my, en daar was van die ander kerele ook by my.

You cannot remember talking specifically to any of your mates from Springs about what you had seen? --- Nee, dit is 'n period van oor die nege maande nou, en ek kan nie die name nou almal presies onthou wie was langs my nie, of met wie het ek gepraat nie.

The man who was beside you and who got hit, do you perhaps remember his name? --- Ek dink van Schalkwyk, en ek dink Joubert. Hulle was effens aan my regterkant. Ek kan nie presies sê hoe ver regs nie, maar hulle was feitlik langs my.

Are they also men who were from Springs? --- Ja.

Did you mention it to them do you remember, i.e. about the knives? --- Nee, hulle het nie direk langs my gestaan nie.

Were they in the neighbourhood nearby you, a few paces away? --- Ja.

And if they were looking in the direction that you were looking they would have also seen the knives? --- Ja, dit is moontlik.

Do you know the initials of these men Constable? --- Nee.

Do you know if these men have given evidence in this Court? --- Ja, ek meen Joubert het gegee, en ek meen amper van Schalkwyk ook maar ek is nie seker nie.

GEEN KRUISVERHOOR DEUR BESKULDIGDES NRS. 1, 3, 4, 8, 38 EN 39.

GEEN HERVERHOOR DEUR DIE PUBLIEKE AANKLAER.

HOF VERDAAG TOT 20.12.1960.