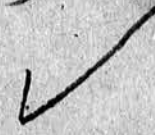


S. Staro 326: 323.2 (68232) Com

Vol 35



2490 — 2553.

21 DESEMBER 1960.HOF HERVAT : VERSKYNINGS SOOS VOORHEEN.

Die Hof versoek die getuie Isaac Tatai om op hierdie stadium na vore te kom en na die getuienis te luister, aangesien dit hom raak.

Die Publieke Aanklaer roep:

GERGE FREDERIK REYNEKE, bevestig dat hy die waarheid sal praat:
VERHOOR DEUR DIE PUBLIEKE AANKLAER:

Is u 'n Speurdersersant in diens van die Suid-Afrikaanse Polisie te Vereeniging? ---Ek is.

En op die 27ste Maart hierdie jaar, omtrent 9.30 v.m. het u na die Vereeniging Hospitaal gegaan met die doel om 'n verklaring te neem van 'n sekere Isaac Tatai? --- Van hom en verskeie ander Bantoes.

Sal u Isaac Tatai kan uitwys? ---Nee.

En kan u onthou waar u die persoon gekry het, d.i. Isaac Tatai? --- Hy was in 'n bed in die hospitaal waar hy behandeling ontvang het.

Was enige beserings sigbaar aan die persoon van Isaac Tatai wat u kon sien? ---Ek kan nie onthou nie. Ek het daardie oggend ongeveer dertig verklarings geneem, en ek kan nie die besondere geval onthou nie.

En het u 'n Bantokonstabel saangeneem om as 'n tolk op te tree? --- Bantoespeurder James.

Nou, ek wil u 'n bewysstuk toon. Dit is bewysstuk 83. Is dit 'n verklaring wat u geneem het? ---Ja.

En dit wil voorkom asof 'n sekere persoon met die naam van Isaac Tatai daardie verklaring aan u gemaak het? --- Dit is reg. In die Vereeniging Hospitaal op die datum..

Wat was die toestand van die persoon van wie u die verklaring geneem het, d.i. in verband met bedwelvende drank, bedwelvende middels, ^{of} of hy by sy volle verstand en nugter

was? --- Ek het myself tevrede gestel dat die persoon nugter was en dat hy samehangend was.

Nou, hoe was die verklaring van hom geneem? Deur middel van een algemene inleidende vraag, of deur vroe en antwoorde, d.i. vroe wat u aan hom gestel het en wat hy geantwoord het? --- Ek het vasgestel dat die persoon van wie ek die verklaring geneem het op die 21ste verwond was, en dat dit blykbaar 'n skietwond was, en ek het toe aan hom gevra ek wil by hom weet waar hy verwond was en hoe hy verwond was, en hy het toe aan die tolk 'n storie vertel wat aan my oorvertolk was, en wat ek toe paragraaf-paragraaf afgeneem het soos die storie vertel is.

En nadat die verklaring geneem is en voordat die persoon die verklaring geteken het, hoe was die inhoud aan die persoon oorgegee? --- Wat ek altyd doen is ek lees die verklaring in die taal oor aan die tolk en hy tolk dit weer terug aan die getuie, en dan vra ek hom of hy tevrede is dat dit reg is, en as hy dan te kenne gee dat dit ^{so} is dan teken hy, en dit was dan gedoen in hierdie geval.

Op hierdie stadium het ek geen verdere vroe nie, Edelagbare.

KRUISVERHOOR DEUR MNR. UNTERHALTER:

Sergeant, what was the day upon which according to Exhibit 83 you took the statement? --- It was on a Sunday morning.

The calendar day I mean? --- You mean the date?

Yes, the date? --- The 27th.

The 27th Magoh. You say that you took statements from about thirty injured? --- About. It was quite a good number. I should say about thirty. When I say statements some did not want to say anything, and others just gave very

short/....

short statements, just to say that they did not know how they got injured, but this was one of the long ones.

Now, having handled quite a large number of these on that day, you have not got an independent recollection of each one of them, have you? --- No, I said so earlier in my evidence that I cannot recollect this specific case. It is only by referring to this statement now before me.

Now, these people, being in hospital, were in various states of injury I presume? --- Yes. The one in question, according to my information, had a bullet wound of the back.

When you say the one in question is this the one who gave you the statement Exhibit 83? --- Correct.

You say that from refreshing your memory by reading what you see on the statement before you now? --- Yes, what he told me.

Now, is it not a fact that very many of these people just a few days after having been wounded were still in considerable pain? --- I should say yes.

And Sergeant may it not be that because of their physical condition and their pain, the type of statement they gave you might possibly not be as accurate as one given by a man not in pain? --- Your Worship, I did not take a statement unless a man appeared to be coherent and to be able to tell me what he knew or what I wanted to know.

Sergeant, you used your own judgement as to whether or not a particular person was able to talk properly to you? --- Yes.

I take it you did not consult any doctor? --- Well, we did get permission from the Medical Superintendent.

BY THE COURT:

Would that just be general permission to interview the/....

the persons? --- To interview yes, but not specifically.

Not as to the state of the person concerned? --- No.

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

Now Sergeant, it therefore follows I take it that in connection with any particular person whom you were interviewing you yourself were unaware whether he might at that moment be under the influence of drugs to alleviate the pain - you would not know that? --- I don't think so Your Worship. I would have been able to judge whether the man was able to give me a coherent statement.

No Sergeant, you don't seem to have understood my question. I am going to put it to you again. You as a layman, not consulting the doctor specifically, did not know whether any particular man whom you were interviewing, was or was not under the influence of drugs? --- Yes. I cannot say that the man did not have drugs or did have, but I say this. That I took a statement from a man who appeared to me to be able to know what he was saying.

Just to clear it up completely. You would not know whether a few hours or half an hour before your interview the man had been given say an injection of "pethidine"? You would not know that? --- I would not have known it, but I would have seen it in his condition, if he was affected by the drug.

Sergeant, you don't claim to know what the effect say of a drug like "pethidine" might be in its external manifestations, do you? --- No, but I claim to know when a man is coherent or not in regard to a specific matter.

But the effect of administering a drug might have had a subjective influence upon the patient which you could not observe and know? --- I agree, but on the same hand I asked all the people what date it was, and by various questions I satisfied/....

satisfied myself that at that stage the persons that I took statements from knew what they were talking about. What the effect of drugs on them were I cannot say. I cannot say what the effect had been.

When you asked the date you did it in order to test the patient's orientation in time? --- Not only that. That was one of the things.

Now, did you record for example on Exhibit 83 that you had made this test to orientate him in time by asking him the date? --- I have recorded here in Afrikaans: „Ek is tans 'n pasiënt by die Vereeniging hospitaal". That would have been in reply to a question of mine. „Ek was op Maandag die 21ste Maart verwond by Sharpeville Polisiestasië in die skietvoerval toe die Polisie op die Bantoes gevuur het." Now, that is part of a verbal statement to me through which I satisfied myself that the man knew why he was in hospital, and how he got injured.

My question is your having said to His Worship earlier you questioned him as to the date, why does it not appear at the heading of your statement "The patient says that he is aware today is Sunday the 27th March". He answers this in reply to a question that I put to him", or words to that effect? Why is that absent from the statement? --- I see no reason why I should have recorded it. The man was regarded as an ordinary witness. It is never done.

Sergeant, you will concede that he is not an ordinary witness in the sense of a man who is unwounded? Here is a man lying in hospital with a wound that apparently entered his back and came out at his neck. It is not like a person whom you interview in his office, and who is unaffected by any injury? You agree with that, don't you? --- I agree with you, but I would like to add that I used more tact and was in fact more

courteous/....

courteous than what you normally are.

Sergeant, I am not suggesting to you that you were unkind. I am sure any person seeing these unfortunate people in a hospital in that condition, would have acted similarly. What I want to ask you, however, is this. You were aware by very reason of the fact that you have said to His Worship that you tested for date, that this was just not an ordinary person, but it required very special attention on your part as the questioner, is that not so? --- Correct.

Now, being aware of that Sergeant, then why did you not safeguard your own position by putting that as a preliminary to your interview at the head of Exhibit 83? --- I did not consider at the time that it would ever have been questioned that this man was not possibly in his sound and sober senses; it never entered my mind.

You gave evidence in this Court some weeks ago Sergeant, did you not? --- I did yes.

Do you remember that on that earlier occasion there was testimony to the effect that you informed the person you were interviewing that he was under a duty to disclose certain information to you? --- I did.

Now, as a Policeman Sergeant, do you concede that that was the wrong procedure to adopt, do you not? --- It is not; not as far as I am concerned.

Does the Code not give a Policeman only the power to ask the name and address? ---Yes, but the Code also provides that if a person does not wish to or refuses to make a statement he can be brought before a Magistrate and information can be obtained from him.

But Sergeant, there is no provision in the Code which says that a Policeman may say to a person whom he is interviewing/.....

interviewing "You are under a duty to answer my questions, other than name and address". Do you concede that? — No, I don't. There is nothing in the Code which forbids me as a Policeman not to say that to a person. My actions are not governed by the Code.

Let me put it to you another way. Is there anything in the Code that empowers you to make that statement to a person whom you interview, other than as regards name and address? — Well, to tell you, a Policeman's duties in so far as witnesses and accused persons are concerned, are laid down in what is termed the Judges' Rules, which do not appear in any Law; it is just a guide to a Policeman. A Policeman must use his discretion. There are ten different rules by which he is guided.

Mr. Reyneke, you have not answered the question. I am asking you is there anything in the Code — I will hand it to you if you would like to look at it — that empowers you as a Policeman to make that statement "That you are under a duty to answer my questions," other than in connection with names and addresses? — I have answered you. I told you that according to the Code a man is compelled to make a statement to a Magistrate, and it is a Policeman's duty to put it to a person that unless he tells him he can be compelled to give the information.

No, that is not my question Mr. Reyneke. I am not discussing Section 83, I am discussing your rights as a Policeman. Is there anything in the Code that says "A Policeman is empowered to say to a person whom he is interviewing "You are under a duty to answer my questions"?". — No.

Now, in regard to your investigation apropos of Exhibit 83, do you not think that here similarly your procedure was/....

was not as exhaustive as it might have been? — No, I don't agree. The position was entirely different.

Mr. Reyneke, I am not suggesting that you told the person you were interviewing that he was under a duty to answer your questions. Can I assume that you did not? — I am not implying that.

BY THE COURT:

Then what are all the questions being asked about then?

BY MR. UNTERHALTER:

In one moment Your Worship I will make the point clear.

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

I take it Mr. Reyneke that in fact you did not say to this man he was under a duty to answer your questions? — No, because he was a possible witness. I mean there was no need to tell him that.

Now, having suggested to you, and I shall argue that in due course to His Worship, that your procedure on other occasions had actually been wrong in having told a person that he was under a duty to answer questions as a Policeman when you should not have put it to him, I am suggesting to you that likewise your procedure was wrong in having failed clearly to indicate on Exhibit 83 the test for orientation that you have spoken about to His Worship? — Your Worship, I don't agree. I was referred to one other occasion, and not occasions, where I have taken some of the statements, and on that occasion the circumstances were different.

Mr. Reyneke, I take it you did not understand the language in which that particular person was giving his answers to you? — No, I said that I used an Interpreter.

So/....

So you had to judge coherence from the way the answer was conveyed to you by the Interpreter? — And by the appearance of the witness at the time.

You could not gather from the language whether in the African language the words were coming out in a hesitant or disconnected way and were in fact being assembled into a coherent form by the Interpreter as he gave you the answer, could you? — No, of course I cannot remember how the witness spoke, but I say that I would not have taken the statement if I had seen that this man was for instance sleepy or he appeared to have been under the influence of a drug, or he could not speak properly; I would not have taken his statement. Although I do not understand his tongue, you can see when a man speaks fluently or hesitantly or incoherently. That you observe. You don't have to know the man's tongue.

8 Mr. Reyneke, is there any reason you can give why in fact you did not deem it fit to consult a doctor as to the condition of any man you proposed to interview? — The only answer I can give there is that from my observations the man was not so seriously injured or in such a physical condition that he could not interview me. There were cases where we did not interview the people. They were in obvious pain and they could not.... it was obvious that it would have been ^{an} embarrassment to be interviewed.

Thank you, Your Worship.

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

RE-EXAMINED BY THE PUBLIC PROSECUTOR:

Sergeant, is there anything in the so-called Code which prescribes or requires that a person taking a statement....

BY THE COURT:

Why not ask me that question, Mr. Prosecutor?

By/...

BY THE PUBLIC PROSECUTOR:

I could argue it, Your Worship. I will abandon that question, Your Worship.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Sergeant, how long is that statement? How many pages does it comprise? — Nearly three, two-and-a-half.

Thank you, Your Worship.

JAMES NTIKANE, beëdig, verklaar:

VERHOOR DEUR DIE PUBLIEKE AANKLAER:

Is u 'n Bantoe Speurderkonstabel in diens van die Suid-Afrikaanse Polisie te Vereeniging? — Ek is.

Op die 27ste van Maart hierdie jaar omtrent 9,30 v.m. het jy Sersant Reyneke vergesel na die Vereeniging Hospitaal om as tolk op te tree wanneer hy verklarings neem? — Ja.

Jy het nou bewysstuk nr. 83 voor jou. Staan jou handtekening daarop as 'n getuie en tolk? — Dit is my handtekening ja.

Sal jy in staat wees om die persoon wie daardie verklaring geteken het, nl. die persoon Isaac Tatai, uit te ken? — Ja.

Sal jy net afstaan en deur die Hof kyk om te sien of daardie persoon teenwoordig is? — (Getuie staan af en wys Isaac Tatai uit).

BY THE PUBLIC PROSECUTOR:

Your Worship, I noticed that there was some slight disturbance amongst the accused when the witness walked across and pointed out the witness Isaac Tatai.

Verhoor/....

VERHOOR DEUR DIE PUBLIEKE AANKLAER VERVOLG:

Jy het nou Isaac Tatal uitgewys. Kan u onthou of hy in die bed was en of hy rondge-loop het, of waar hy was tydens die verklaring? — Ek dink hy was in die bed gewees.

En watter tale het jy gebruik toe jy getolk het? — Ek het Bantoetaal gepraat, maar ek kan definitief nie se....

En die ander amptelike taal, wat was dit? — Dit was Afrikaans.

En het jy tot die beste van jou vermoë getolk vanaf die Bantoetaal na Afrikaans, en weer vanaf Afrikaans na die Bantoetaal? — Ja.

Nou, wat was die toestand van die getuie Isaac Tatal sover as sy bekwaamheid om die verklaring te maak betref? — Dit is baie moeilik om te se wat die toestand van die getuie was.

Hoe lank is daardie verklaring wat hy gemaak het, hoeveel bladsye? — Eerskans?

Hoe lank is daardie verklaring? Twee-en-'n-half bladsye, is dit nie? — Ja.

Nou, tydens die neem van die verklaring het die getuie Isaac Tatal ooit gekla of enige klagtes aan jou gerig? — Nie sover ek onthou nie.

Dankie, Edelaagbare.

KRUISVERHOOR DEUR MNR. UNTERHALTER:

Were you in the Court at all during this morning?

— Yes.

Did you observe Isaac come forward when His Worship suggested that he should be present to hear this testimony? — Not at that time. At that time I was outside.

How do you know that His Worship made such a statement, or do you know it? — No.

By/....

BY THE COURT:

I think you have just ^{told} the witness, Mr. Unterhalter.

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

If Your Worship will bear with me. I want to be fair to him.

Do you know that His Worship used those remarks? ---
No, I do not know.

Were you entrusted with the service of a subpoena upon this witness? --- No.

Were you in Court yesterday at all? --- No.

Was the only time that you saw him the time that you took the statement from him in the hospital? --- Yes.

And you did not know him before that day? --- I did.

You have an independent recollection of his face then? --- Yes.

I take it you cannot remember in what manner he gave the information to you on the day that you translated what is on Exhibit 83? --- I don't clearly follow the question.

Let me put it to you another way. Sergeant Reyneke said that there were about thirty people with whom you were busy at the hospital. Would you agree? --- Yes.

Most of these people were injured? --- Yes.

You yourself I take it, because of the large number of people, have no distinct recollection today of the manner in which whoever the person was who made that statement, spoke to you? You could not describe how he spoke to you today because you handled so many people that day? Would that be correct? --- That is correct.

Among these thirty people there were lots of them I take it who appeared to you to be in pain? --- That is correct.

You cannot say whether as regards Isaac he was or was/....

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J. Ntikane.
I. Tatai.

was not in pain at the time? --- No, I cannot.

Thank you, Your Worship.

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

NO RE-EXAMINATION BY THE PUBLIC PROSECUTOR.

BY THE PUBLIC PROSECUTOR:

I will call no further evidence on this point Sir.

BY THE COURT:

The question is whether in terms of Section 286 you have proved that the witness has previously made a statement with which his evidence is inconsistent?

BY THE PUBLIC PROSECUTOR:

That is so, Your Worship.

BY THE COURT:

I first want Isaac back in the witness box please.

ISAAC TATAI, duly sworn, states: (Recalled by the Court).

BY THE COURT:

Isaac, the Public Prosecutor alleges that you made a statement in hospital which is inconsistent with the evidence which you gave yesterday. I have not read that statement but I am going to ask him to point out on what points he says the evidence is inconsistent. Will you do that very shortly Mr. Prosecutor, and then I will address the witness further.

BY THE PUBLIC PROSECUTOR:

The crown alleges Sir that on a day approximately a week before the shooting at Sharpeville, and at African Cables two Bantus whom he knows as Dhlamini and Michael spoke to him about/....

about "passangeleenthere, en het ons aangesê om op Maandag weg te bly by die werk".

BY THE COURT:

You say that is inconsistent with his evidence?

BY THE PUBLIC PROSECUTOR:

Yes, Your Worship. The other one is Sir where he says "Ek het nie gehoor dat ons daar deur iemand toegesprek sou word nie". That is when he is referring to going to the Police Station. Then the third one is "Ek het nie geweet wat ons daar gemaak het nie. Die Bantoes het almal "Afrika!" gekree. Ek het nie verwag om deur 'n hooggeplaaste blanke persoon toegesprek te word nie".

BY THE COURT:

Well, that is the same point.

BY THE PUBLIC PROSECUTOR:

Yes, Your Worship.

BY THE COURT:

Then it is really the two points?

BY THE PUBLIC PROSECUTOR:

Really the two points, Sir.

BY THE COURT : TO THE WITNESS ISAAC TATAI:

Now, the Prosecutor says that you have now said that you had no discussions with a person called Dhlamini and a person called Michael at your work about a week before the shooting. That is what you have said in Court, whereas according to the Police ^{statement you} told the Police you did have such discussions with those two people concerning passes, and that they told you not to go to work the next Monday, i.e. on the day of the shooting. Now, you told me yesterday that you had heard from people that a highly placed official was going to address the gathering at the Police Station, and that is why everybody/....

everybody was going there. Then according to your statement to the Police you said that you had heard nothing like that, you did not expect to be addressed by a highly placed official.

Now Isaac, I am going to ask you whether you wish to say anything on the alleged differences between your evidence yesterday and the statement as given to Detective Sergeant Reyneke and the last witness, James. You admitted your signature to that document yesterday, and they say they took it.

By the way, what all the dispute about his identity this morning was about I still cannot see!

Do you wish to comment on the differences? Do you wish to explain them? What do you wish to do? --- Your Worship, concerning the statement I made first, I have no full knowledge of it. I was not at that time in my sober senses. The statement I have knowledge of is the evidence I gave yesterday.

Did you yesterday say that you made two statements to the Police, i.e. another one afterwards? --- That is correct.

Do you recollect when you made the second statement? When you were in hospital or when you were out of hospital? --- I was out of hospital and I was attending the clinic when I made the second statement. I still remember.

BY THE COURT:

Mr. Interpreter, have you got that second statement?

BY THE PUBLIC PROSECUTOR:

I have got one statement, Sir.

BY THE COURT:

Well, how does it affect this one?

BY THE PUBLIC PROSECUTOR:

This is the one that Your Worship has. It is the only/....

only one that I have in my possession.

BY THE COURT:

Yesterday it was already clear that there were two statements made by this witness to the Police. If I suppose for a moment that the second statement is in accordance with his evidence, then what is the position?

BY THE PUBLIC PROSECUTOR:

I did not pay particular attention Sir first of all to his statement that he made a second statement to the Police, because I know that.....

BY THE COURT:

It will affect the question of his credibility very much!

BY THE PUBLIC PROSECUTOR:

Yes, I know Sir, but I did not pay too much attention to it. I know that persons other than the Police also took statements from people in the hospital, and I thought that there might have been a confusion.

BY THE COURT : TO THE WITNESS:

To whom did you make the second statement? To a Policeman, to a private person, to whom? Have you any knowledge of a second statement so far as the Police are concerned, Mr. Prosecutor?

BY THE PUBLIC PROSECUTOR:

No Sir, I have only this one and a copy of it, a typed copy of it.

BY THE WITNESS:

The Detective who is now standing. He was present when I made that statement.

BY THE COURT:

Which detective? ---The one standing up. I made the/....

the statement to a private individual, who was wearing private clothes.

That is Mr. Lerm. Was he present? Did you make it to him or to somebody else? --- I made it to a native, but this detective now in Court was also present.

NO FURTHER QUESTIONS BY THE PUBLIC PROSECUTOR.

CROSS-EXAMINED BY MR. UNTERHALTER:

Were you in pain at the time that you made that statement in hospital to Mr. Reymake? --- I was in pain. The right portion of my body was paralysed. It is still slightly paralysed.

Did the people in the hospital give you anything at about that time to make the pain a little less? --- I was given an injection to make it a little bit better.

CROSS-EXAMINED BY ACCUSED NO. 1:

Between the statements you previously made and the evidence you gave in Court, which do you think is the correct version? --- What the true statement is is the evidence I gave yesterday here in Court. I would be telling lies if I say the two former ones are correct.

BY THE COURT:

How do you know? Do you know that the two former ones are not correct? There is only an allegation that they are not correct, or that one of them is not correct. --- I do not say they are correct, nor do I say they are incorrect.

What you say is that your evidence here in Court is the truth; and if the statement or statements do not agree with it then you still say that the evidence is the truth and not the statements? Is that right? --- Yes, Your Worship.

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

By/....

BY THE COURT:

Gentlemen, as I see the position that is how I am going to leave the matter at this stage. I shall not peruse Exhibit No. 83 yet. When it comes to the question of the parties addressing the Court on the credibility of this witness the whole matter can be dealt with. I must remark in any case that even if a witness does make conflicting statements that does not necessarily mean that the Court must discard his evidence, or must discard all of his evidence. It is just a matter to be taken into account when the Court weighs his credibility and the weight to be attached to his evidence.

BY THE PUBLIC PROSECUTOR:

Might this Exhibit then Sir be filed in the Exhibit Book?

BY THE COURT:

Yes. I have marked it and initialled it, and you have told me very roughly what the two points of difference are.

COURT ADJOURNS.

COURT RESUMES:

CHRISTMAS MPANPE, states:

BY THE INTERPRETER:

Your Worship, the witness is refusing to take the oath. He says even if he does not take the oath he will still speak the truth.

BY THE COURT : TO THE WITNESS:

Why do you refuse to take the oath? — Why I am refusing/....

refusing to take the oath is because I do not know what it means when I say "God", in other words, "So help me God".

I see. You do not know what an oath means? Is that right? — No, I do not know.

Have you got any education at all, any formal education? Did you ever go to school or anything like that? — I do not know even how to write an "A".

Well now, that being so, if you do not understand the nature of an oath, I must admonish you that you must speak the truth. You must go further and speak the whole truth and nothing but the truth. — Yes, Your Worship.

A further warning which I must give to you is that if a man in the witness box gives evidence which is not the truth, which he knows is not the truth, he may be punished with the crime of perjury. — Yes.

Now, let us have a few further details. Do you know what your age is? — I was born in 1918.

You are no child! — Yes, I am a man seeing that I have a wife.

And how long ^{have} you been working, i.e. working in the towns, if that is what you are doing now, or whether you have just come from the farms or the kraal? — Does Your Worship want me to tell you where I originally come from, or whether I have been working in the urban areas?

I just want to know whether you have been working in the towns for some time already or not? — I have been working here in Vereeniging since 1937.

EXAMINED BY THE PUBLIC PROSECUTOR:

You live in Sharpeville Native Township? — Yes,

I do.

How long have you been living there? — For a very long/.....

long time I have been living there.

And have you a wife and children? — Yes.

And do they live with you at Sharpeville? — One of my children lives with me there, and the other children of mine are in the Orange Free State.

And the child that lives with you, is it of school going age or is that child working? — At present that child, it is a girl, is not of school going age. She is not working, but there are people who are making an attempt to "lobola" her. She is in Johannesburg at present.

BY THE COURT:

She is approaching marriageable age? Is that right? — Yes. The position is this that at present she has been requested by the people who want to marry her that she should come and visit the home.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Now, do you remember the day that the shooting took place at the Sharpeville Police Station in March this year? — Yes, I do remember.

Do you recall that that took place on a Monday? — Concerning a Monday I don't know anything.

BY THE COURT:

You mean you don't know what day of the week it was? — No. I know nothing about the Monday.

Does he mean he knows nothing about that Monday, or he does not know anything about what Monday is? — I know nothing concerning that particular Monday, but I know something concerning the 20th, Your Worship.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Was the 20th the day just prior to the day of the shooting? — I should only be asked concerning the Sunday.

I/....

I should not be asked anything concerning the Monday, because I know nothing.

BY THE COURT:

Would you mind minding your business? It is not your business as to what you must be asked here in Court! Now, the Public Prosecutor wants to know whether the 20th was the Sunday, and whether it was the day before you heard of this shooting having taken place? Is that so? --- Yes, Your Worship, but I only know much about the Sunday. That is the day that I can give evidence about.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Yes, I just want to establish that your Sunday is the same Sunday that I am interested in. Now, what do you know about this Sunday? Let's hear it! --- On Sunday night I was woken up. I think it ^{was} about a quarter to one. After I had been woken up I did not want to go and open the door, but seeing that I was induced in a certain way to open the door I did so. From there I then went and opened. I then realised that should I not open the door these people would then enter through the windows, seeing that they were knocking hard on the windows. I then eventually opened. After having opened I then went to the bedroom. They then filled up the dining-room. One then came into the bedroom. I then asked this particular individual what was the matter, why do they knock on my window so hard and wake me up? He said to me "Man, wake up! Why are you asleep?" I just kept on hesitating. I was very hesitant there. These people were many, and they then forced me out of the house. When I came out in the street I found that there were very many outside, more than those I had seen there inside the house. When I asked them they said
There/....

"There is nothing you can say here, but go!". I then left.

Where to? --- We then got to the main gate proceeding upwards. When we got to the post office the Police then appeared from the opposite side in their vehicles. On their arrival they did not ask us what we wanted there. They then started hitting us. I was also assaulted, and I show a mark on my head. (Witness indicates the mark to the Court).

BY THE COURT:

The witness shows quite a long mark, about 2 inches long. --- Your Worship, the wound received five stitches. After I had been struck I fell alongside the main street. When I got up there at that spot I did not see anybody there in the nearby vicinity. I then took off my vest and tied it round the wound, so that it could not bleed profusely. I then walked away. I went to the hospital.

When did you go to hospital? --- At the same time.

In the night? --- In the night.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Now, when these people entered your house did they tell you what they wanted with you? --- They did not tell me.

Did you try and find out at all? --- I did ask them what they wanted, but they replied and said I should come out and walk away, come with them.

And once you were outside and walking with them were you able to find out where you were going to and for what purpose? --- When I asked them on arriving outside they said there was nothing we could discuss there, but "You must go. You will see where you are going to".

Did you know any of the persons who came into your house that night? --- There were many people there whom I call tsotsis. It was this young group. I do not know tsotsis.

Will/....

Will you be able to point out any of these people you allege are tsotsis? --- If he is present here in Court, and if he was present at that time, I will be able to point him out, although I have my doubts as I look amongst them that he is here or they are here.

Will you just stand down and have a look to see if they are present? --- (Witness stands down but is unable to point out anybody). Amongst these who are here I do not recognise anyone as one of those who were present there.

Now, was any damage done at your house that night?

--- Yes.

What was damaged? --- The windows; the window panes were damaged.

And how were they broken? --- I think they hit them with some object, causing holes. They had sort of holes in them.

BY THE COURT:

How many panes? --- Altogether there were nine window panes which were damaged.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Was anything else besides the window panes damaged?

--- No.

And did you remain the rest of the night at the Vereeniging Hospital, or did you go home after you had been treated? --- After having been treated for my wound I was then released and allowed to go home.

BY THE COURT:

When? At what time? --- In the morning.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Were you supposed to go to work that morning? ---

Yes.

Did you go to work? --- No, I did not go to work because/....

because the wound was painful.

Thank you, Your Worship.

CROSS-EXAMINED BY MR. UNTERHALTER:

Just before you were struck on the head somewhere near the post office, did you hear any warning given by the Police, telling you that you must disperse? — No, I did not hear such a thing.

Did you see the Police clearly as they came out of their vehicles? — I did see them because they appeared from the direction of the hall, the communal hall, proceeding downwards.

And according to you they got out of the vehicles and they rushed you and struck you without any warning whatsoever? — They did not ask what it was, but immediately they came to us they started just hitting us with their sticks.

Thank you, Your Worship.

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

NO RE-EXAMINATION BY THE PUBLIC PROSECUTOR.

BY THE COURT:

Well Christmas, where did you think you were going to that night with this gang of tsotsis? — I did not know where I was going to.

But why did you go with the tsotsis? — They were pushing me and forcing me to come with them.

And when you saw the Police you did not even have time to complain that you were being abducted? Is that right? — At the first stage when I was confronted by the Police, when they rushed past me, I did not get a chance of lifting up my hands in order to show them that there was peace with me.

As/....

As I say they rushed past me, and when they returned they came from both sides and then started hitting us.

Can you remember what time of the day it was when you were discharged from hospital? Was it still night-time or was it already day-time? — It was already in the early hours of the morning. There was light already.

Did you go straight home? — When I got outside the hospital I found a vehicle there which carried others into the location, and I also got into it. I also got a lift to the location.

Did you go straight home, or did you go about in the location first? — From this vehicle I went straight home.

Did you see any people in the streets? i.e. before you got into your house? — I did not see any people. I remained inside my house.

The whole day? or did you go out? — The whole day.

And then when did you hear that there had been shooting? — I was at my home. I have no evidence concerning the incident of the shooting.

When did somebody tell you about it or when did you hear the sound of the shots, i.e. you yourself? — I live at Putso Setenie. The Police Station is far away from there, and I would not be able to hear anything from that distance.

AARON MOKOENA, duly sworn, states: (Witness speaks Sesuthu).

EXAMINED BY THE PUBLIC PROSECUTOR:

Do you live in Sharpeville? ---Yes.

How long have you been living there? --- A very long time.

And are you your own employer? Do you sell coal?

Yes/....

--- Yes.

Have you a wife and children? --- Yes.

How old are your children? --- My first child is twenty-three years old.

Have you got any young ones? --- The youngest is ten years old.

Is that a boy or a girl? --- A boy.

And do you and your children and your wife all occupy the same house? --- Yes.

Now, do you remember the day that the shooting took place at Sharpeville, which was on a Monday? --- Yes.

And the day just before that actually was the Sunday? --- Yes.

Now, did you and your family go to sleep in your house on the Sunday night? --- Yes.

And did anything disturb you during the night? --- Yes, at night.

What was the first intimation you had of the disturbance? --- I heard a sound of a breaking window pane. It was falling to the ground.

In which room was that? --- That was the front bedroom.

Were you in that room? --- Yes, I was sleeping in that room.

Approximately what time was this? --- I think it was half past twelve.

And what did you do when this sound woke you up? --- These people then said "Get up! We are waiting here on you!"

And what did you do? --- I then asked "What is the matter, seeing that you have already broken my window pane?". They continued and said "We are waiting on you. Do not talk

a/....

a lot!"

What did you do then? --- I then dressed myself. They continuously said "Dress immediately! Do not waste our time!" After having dressed myself I then went outside. Just as I walked out of the kitchen door I then found them standing there in front of the kitchen.

How many? --- It was a group.

Of what? --- Of people.

Men or women? --- Men.

Did you know any of them? --- No, I did not know them.

Will you be able to point out any of them? --- I did not know them, i.e. at that stage.

BY THE COURT:

No, but the question is will you be able to identify any of them now? --- I will not be in a position to point out any of them, seeing that when I got outside they were at that stage then fighting with me.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

How did they fight with you? --- They assaulted me.

How? --- I do not know what object cut me on my head, but it was an object which cut me on my head.

But can you describe the sensation you felt? How did you become aware that some object was cutting you on the head? --- I only felt that something was cutting me when it ran down my head.

And at that stage were you aware of anybody behind you? --- I was not aware that there was anybody standing behind me at that stage.

And were there people in front of you? --- The people I saw were in front of me.

Did/....

Did you see any movements amongst these people in front of you at the same time that you felt this sensation on your head? — Yes, they were lifting up their sticks. They were in a fighting mood.

And after you received this wound, did it cause an open wound, i.e. whatever it was you received on your head?

— Yes.

What happened to you when you received this open wound? — I then told them that I am not going now. "You can do what you like, because you have already injured me".

Did they tell you where they wanted you to go to? — No, they did not tell me where I should go with them.

And when you said that you refused to go with them, what happened then? — Nothing followed after I had refused to accompany them, because I had been injured by them.

Yes, but what did they do? Did they just walk away and leave you, or was there some other incident that took place? — They then left me there..

And did you see where they went to? — That group went downwards from my home..

Did you notice what they did as they went down the street? — No..

And what did you do when they left your premises? — I received some treatment from my wife. She removed the hair so that the hair should not get into the wound.

Was your wife woken up at all that night when the window pane was shattered? — Yes..

What happened to your wife when you went out of the kitchen door? — My wife followed me from behind, in order to close the door from the inside after I had gone out of the house..

Did/....

Did you hear her speak at all? ---Yes, she said "I will close the door from the inside behind you after you have left".

Did you want her to close that door behind you? --- Yes, seeing that these men wanted me to accompany them. After I had walked out of the door I wanted her to close the door behind me.

Did you have any medical treatment for your wound? --- I remained at my home until in the morning. I remained there astonished because I had had information that there were no people going about; there were no vehicles or there was no transport proceeding to the station or into town.

Did you remain at home the whole day? --- Yes, I remained at home the whole day.

Now, how many window panes were broken at your house?

--- Two window panes were broken.

Was there any other damage besides the windows? --- No, it was only the window panes which were damaged. No other damage was caused.

NO CROSS-EXAMINATION BY MR. UNTERHALTER.

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

BY THE COURT:

Is there still a visible scar or mark on your head?

--- I believe it is still visible, because it was a big wound.

Well, show it to me? Let me see it. --- (Witness indicates a mark to the Court).

There is a very small scar on top of his head. Is that the scar now from the place where you got wounded that night? --- Yes, Your Worship.

It is about a quarter of an inch in diameter. You did/....

did not get that wound elsewhere at some other time? --- No,
Your Worship.

9 Very well, thank you. You can stand down.

JOSHUA MOTA, duly sworn, states: (Witness speaks Zulu).

EXAMINED BY THE PUBLIC PROSECUTOR:

Were you employed by the Vaal Transport Company at Vereeniging? --- Yes, that is correct.

Are you still employed there? --- I do not know now, seeing that since the time of my injury I have never been there.

You were wounded when the shooting took place at Sharpeville? --- That is correct.

Where were you wounded? --- Just on the groin. That is where I was injured.

Are you in plaster? --- Yes, I am in plaster.

Now, were you one of the drivers of the buses that do the run from Sharpeville to the Vereeniging city? --- Yes.

And the Sunday before you were wounded were you on duty at all? --- Yes, I was on duty.

What time did you come off duty? --- I came off duty at half past eight at night.

And were you scheduled to go on duty on the Monday?

---Yes.

What time? --- I was scheduled to go on duty at 9.30 a.m. the next day.

Now, the Sunday night did you go to bed in your house in Sharpeville? --- That is correct.

Have/....

2,518.

A. Mokoena.
J. Mota.

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And were you scheduled to go on duty on the Monday? ---Yes.

What time? --- I was scheduled to go on duty at 9.30 a.m. the next day.

Now, the Sunday night did you go to bed in your house in Sharpeville? --- That is correct.

Have/....

Have you a wife and children? --- Yes.

How many children? --- I have seven children.

Are they young ones or working already? --- The first child is still attending school, and the others are not yet. Three of the seven children are attending school, and the four others are not yet of school going age.

Now, after you had gone to bed on the Sunday night did anything disturb you during that night? --- Yes.

What time was it that you were disturbed? --- It was approximately at midnight, at twelve midnight.

And how were you disturbed? --- People came there and woke me up.

How did they make their presence known to you? --- They knocked.

Where? --- They knocked on the door.

Did you get up and go to the door? --- I requested my son to open the door.

And what happened then? --- At the stage when my son opened the door I was also busy getting up to go to the door and see what these people wanted.

Were you able to reach the door or did something happen before you got there? --- I was able to reach the door. Nothing happened.

Yes, and what did you see when you reached the door? --- I just saw a small group of people there.

Were they men or women? --- They were men.

Did you know any of them? --- It was dark and I did not put on the light. I was not able to know any of them.

Will you be able to point out any of the people that you saw? --- There was none of them that I recognised.

What did they want there? --- They said that I should/....

should get up. I should get up and dress myself, and they asked me further whether I did not know what this day meant. I then dressed myself.

BY THE COURT:

Did you know what that day meant? --- I had already heard about it.

Yes, what had you heard? --- I had already heard that on that day people should not go to work.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Yes, these people spoke about this day, and what else did they say to you at the door there? --- After having dressed myself and having come out of the house and being amongst them, they then said to me "Seeing that you are one of the drivers we want to take all of you drivers, and you must go outside the location there, because if we do not do that you as drivers may go and fetch the buses and drive people here and cause trouble, and yet we do not want any trouble".

Yes, but what trouble would you be causing by taking people to work? --- That I did not ask them.

Did you know of any trouble if you carried on with the bus service on the Monday? --- After having heard already that on that particular Monday people were not supposed to go to work, I then at that stage when this was said to me realised that that was the trouble they were referring to.

And did you go with them? --- Yes, I did go with them.

Where did you go to? --- We went to a spot outside the location, near the trees and in the direction of Vanderbijlpark.

Why did you go with them? --- Because they said we were supposed to go and sit there.

Did/....

Did you want to go with them? --- I did not want to go.

Did you tell them that? --- I did not tell them that I did not want to go, because I was afraid.

What were you afraid of? --- I was afraid that perhaps they may quarrel with me.

So you went to this place under the trees? --- Yes.

Did you notice any other bus drivers there? --- I saw them in the morning after dawn.

At this spot under the trees? --- Yes.

And what happened to you when you reached this spot under the trees? --- I just sat there.

For how long? --- Until morning.

Why did you sit there so long? --- Because we were told that we should sit there.

Did anybody remain there to see that you sat there? --- I am not in a position to say whether there was any person or persons who were looking after us there, guarding us, because there were so many. I could not see.

Are you experiencing any discomfort standing there in the witness box? --- Yes, my one leg which got injured gets tired. I am only using the one leg.

BY THE COURT:

What would be a more comfortable position? To sit down or to stand in some other way? --- Yes, if I am sitting down. (At this stage the witness is given a chair and he sits down).

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Did you at any stage try going home? --- Yes, during the day when we left the trees and we were proceeding in the location. Others came there and told us that we should go straight/....

straight to the Police Station and report why we did not go to work.

Who were these people who suggested that you should go along and make a report? --- I do not know them.

And did you go to the Police Station? --- We went to the Police Station.

What time did you arrive at the Police Station? --- If I am not making a mistake it was between half past eight and nine a.m.

And did you make your report? --- Yes, we did make a report.

And after you had made your report what did you do then? --- When we came out there I then left for home.

And once you reached home were there any further interruptions at your home? --- Immediately on my arrival at my home I requested my wife to prepared food for me. Whilst she was busy preparing the food a young boy, or rather a group of young boys arrived there and asked me what was I doing there at my home while the other people had gathered there at the Police Station.

Did you know any of this group? --- Yes, I was able to know three amongst those, whom I had previously seen while on duty.

Will you be able to point them out today if they are present here? --- Yes, if they are present here I will.

Will you just look round the Court and see if you see any of them here? Have a good look round? --- I did look before, and I think they are not here.

BY THE COURT:

Have a good look please, at both the people on the lefthand side and on the righthand side? --- No, none of the three/....

three are here, but I have had information that one of the three is deceased.

You have heard that one of them is now dead? ---
On my return from the hospital I heard about that.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

So they said to you "What are you doing here? Other people are gathering at the Police Station". --- Yes.

What happened then? What did you say to them? ---
I then explained to them that I was already from the Police Station and that I had been woken up very early during the night and that I had come home only to get some food to eat.

Yes, and what happened then? --- They then said "All of us have not yet had food. Come, let us go! We do not want that other people should hear from others what is going to be said there". I again ^{persuaded} persuaded them to wait a few minutes so that I could get myself some food. Then they said to me "Old man, don't cause trouble. Get up, let us go!" I then got up.

Did you go with them? --- I then got up and went with them.

Did you have any food before you left? --- No.

When last had you eaten? --- I had had food the last time on my return from work, when I arrived home, and that was the previous night.

So you went with them to the Police Station? --- Yes

I then went with them to the Police Station.

And were you there when the Police opened fire? ---

Yes.

From the time that these people came and took you away from your house, did you remain at the Police Station continuously until the firing took place? --- Yes, I did whilst
at/....

at the Police Station make two attempts to get away and go home, but I was on two occasions then returned or taken back to the Police Station.

BY THE COURT:

Just repeat that please? You made two attempts to get away, but? --- I made two attempts to get away to my home, but on two occasions I was taken back to the Police Station.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Who took you back? --- I was not the only person who was stopped by these young boys, and they told us "You should go in that direction!". They indicated, and it was not the direction in which we were proceeding.

Was this the same type of courteous young men who had interrupted your meal? --- Those were different ones, although I am not certain whether they were also amongst that group.

I mean the same age group? --- Yes, of slight ages, although of the same group.

How did they actually set about stopping you from going? --- They just shouted and said "Where are you going to?" to us when we tried to get away.

Why did you not just ignore them and carry on? --- I was afraid to ignore them and just go away. I was afraid that perhaps in the evening they may come and cause trouble for me.

On which side of the Police Station were you? There is the big gate side opposite the clinic, and then there is a small gate side which is in the street with the island in the middle. Which side of the Police Station were you on?

--- When what happened?

No/....

No, when you were taken to the Police Station? I just want to know on which side of the Police Station you were? --- When I approached the Police Station I approached it from the side where there is a small gate. I also got amongst the people there in that vicinity.

Whilst you were there on that side did anybody address the crowd? --- No, nobody addressed the crowd at that stage.

Did you remain on that side of the Police Station all the time? --- When I left the south side of the Police Station I went to the western side where there is a big gate.

Now, from the time that you arrived at the Police Station until the shooting took place, did you hear anybody address the crowd? --- No person addressed the crowd whilst I was there, i.e. to say a person perhaps who got on top of something where he could be seen and address the crowd.

No, before we carry on. What query did he put to you Mr. Interpreter? He mentioned something about "Ntlope...."

BY THE INTERPRETER:

No, it was the word "person", and so he is asking whether it was a white person or a non-white person who addressed them.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Well, I want to know whether anybody spoke to the crowd whether White, Black or Yellow, and whether he stood on a bench, on a ladder or on the ground, from the time that you arrived there until the time that the shooting took place? --- There were people on the inside of the fence who were trying to persuade the people not to come near the fence, close to the fence.

Were these Police officials or otherwise? --- They were/....

they were just ordinary people and not Police Officers.

White? --- They were non-Europeans.

Do you know any of them? --- I was right at the back. I only heard their voices saying "Do not come close to the fence. Do not lean against the fence. You must not cause any damage to any property".

Did you remain at the back in the position where you could not see what was happening just inside the fence until the shooting took place? --- I remained there at the place where I was until such time as the shooting commenced. I could not see or get near to the front to see what was happening there.

So from the time that you were there until the time that the shooting took place, were you able to see what took place there at the gate at all, i.e. at the big gate? --- I was not standing at one spot. When the Police vehicles arrived there in large numbers at that stage I was standing in the vicinity of the big gate.

What was the first intimation that you had.....

BY THE COURT:

No, let us get it clear. Could you see what happened at the big gate? You have not replied to that question yet. --- At that minute I could see.

When the vehicles arrived. And after that? --- Yes, at the stage when the Police vehicles arrived I could see what was happening at the gate.

EXAMINATION BY THE PUBLIC PROSECUTOR: CONTINUED:

After that stage until the firing took place were you able to observe any other events which took place in the vicinity of the gate? --- No. There was a time when I left that spot and proceeded to the café.

And/....

And when you came back from the café where did you take up your position? — On my return from the café, between the café and the Police Station, I met other young men whom I knew. We remained there and had a conversation.

Now, just listen carefully. From the time that you returned from the café until the time that the Police opened fire, were you able to observe any events that took place in the vicinity of that big gate? — At the time when I was there I did see what happened, but at the time when I had my back to that area I do not know what happened, or at the time when I was not there and when I was away.

BY THE COURT:

Why not let us hear if he saw anything happening at the gate at any stage he happened to look at it?

BY THE PUBLIC PROSECUTOR:

Your Worship, I don't want to lead him on that aspect. I want to find out whether he had the opportunity of seeing events which took place at that gate from the time that he arrived until the time that the shooting took place. If he will give me an answer that he did see that or he did not see events taking place, then I will know what aspect to pursue.

BY THE COURT:

Just proceed in the way in which you think you want to.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

My question to him was from the time that he returned from the café until the time that the shooting took place, was he able to observe any events which took place at the big gate?

— On my return from the café at the spot where I was standing I saw three vehicles, i.e. short vehicles as I indicate with my hand, which arrived there. Seeing that what we had heard

was/....

was to the effect that this important European would only arrive there at two o'clock, the one who was supposed to make that speech or whose speech was awaited by these people.....

When did you hear that? --- That I heard when I returned home, when I came back home.

When you came back after being in the veld? --- That information I got after my return from my home, and when I tried to have a meal at home and was stopped, and when I returned again to the Police Station.

And where were you when you heard this rumour? At the Police Station, or on your way to it, or still at your house? --- I was at the Police Station when I heard that rumour.

Now, was that just a rumour you heard circulating amongst members of the crowd, or was it an announcement made specifically by some particular person? --- I just heard that rumour from the people who were standing there waiting.

Now, you said you went to the café and you came back to the Police Station. When you returned to the Police Station did you remain in the position to which you had returned to until the shooting took place, i.e. in the same spot? --- Yes, I stood at that spot where eventually I was shot.

Now, let's try and establish your position. Here is an exhibit, i.e. No. 13. Just have a look at it for a moment so that I can help you understand it. Do you agree that that is a photograph from the air showing the Sharpeville Police Station? --- Yes.

And you can see the front of the Police Station is in the street which has the island running down the middle? That is the street they call Zwane Street. That is where you were earlier on in the morning? --- Yes.

Then you moved round to the western side, i.e. the side/....

side just opposite the clinic where that little group is standing opposite where the big gate is situated in the fence?

— Yes.

Now, I think if you will take a pencil or a pen and put an "M", i.e. for your surname, on the spot where you were standing when you were shot, because you were standing on the same spot all the time as I understand your evidence. Before you do that do you understand the photograph sufficiently to be able to put your mark on the spot where you say you were shot? — Yes, I do understand it. (Witness marks the spot on the photograph).

Now, were you on the shop side of the gate or on the Zwane Street side of the gate, the big gate? — On the shop side.

How far were you from the big gate? Can you indicate the distance? — As far as the wall.

BY THE COURT:

Well now, the distance you are indicating is very much the distance from you to the small wall at the back. That was paced off yesterday. — No, it is not the same distance. (Distance paced off as 12 paces).

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

And how far were you from the wire fence of the Police Station, i.e. from the nearest point of the wire fence? — A distance of about from the table to where I am sitting. (Witness indicates about two paces).

(The witness is warned not to discuss the merits of the case with anybody during the lunch adjournment).

COURT ADJOURNS.

Court/....

COURT RESUMES:

JOSHUA MOTA, under his former oath, continues:

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

We had reached the stage where you described exactly where you were standing on the western side after you had come back from the café? — That is correct.

Now, are you able to tell the Court how long you stood in that position before the firing commenced? — I cannot say how long it took me, i.e. whilst I was there before the firing started, but it was not a very long time.

And during the time that you stood there until the time that the shooting took place, were you able to observe what took place at that big gate? — Yes, I was able to see what happened at the big gate.

Now, what was the first intimation that you had that the Police were firing? — I heard a person who said "Fire!", and then I heard them firing.

What language was used when you heard the word "Fire!"? — That was said in Afrikaans.

Do you understand Afrikaans? — Yes, I do not understand it fully but I do understand it.

Will you be able to repeat the word in Afrikaans that you heard and which you have interpreted as "Fire!"? — The word is this. He said "Skiet!".

And then the firing took place? — And the firing took place.

Were you struck by a bullet before you could turn to run away, or had you already commenced to run away when you were struck by a bullet? — Whilst I was in the act of turning and running away the first bullet struck me here where

I/....

I indicate on my....

You show on the right outer thigh? ---On the right thigh. The first bullet penetrated here through my thigh. It entered on the side and penetrated in front of the groin. It did not touch the flesh, Your Worship.

It went through your clothing, the first bullet? --- It went through the clothing. I had this glass container of mine inside, and it got damaged.

BY THE COURT:

You had a glass case in your right trousers pocket? Is that right? --- Yes.

And the case was struck? I see a mark on it there. --- Yes.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

And then was it another bullet that struck you in the right leg? in the right thigh? --- When I was about to lift up my leg then the second bullet struck me where I now indicate with my right hand. (Witness indicates near his right hip). When I pointed to my glasses I was saying that it also damaged the case of my spectacles whilst it was still in my pocket.

And as a result of that wound you fell to the ground and could not get up? --- Yes.

And you remained there until you were first of all moved to the side of the road, and then later moved away by transport to hospital? --- Yes.

Now, do you know anybody by the name of Tsolo? --- I know him from hearing about him.

But do you know the man? Will you be able to point out a person and say "Well, that is Tsolo"? --- The person whom I saw at the bus stop on the Sunday, i.e. the Sunday before this happened/....

happened, I will be able to point him out.

I will come to that in a moment, but will you be able to point out a person as a person whom you know as Tsolo?
--- Yes, I can point him out.

Will you have a look through the Court to see if there is anybody here whom you know as Tsolo? --- I have looked and he is not there, that person whom I know as Tsolo.

Do you know any of the accused persons? --- I know those with whom I was at the hospital.

Did you just learn to know them because they happened to be at hospital with you? --- ~~Several~~ ^{Four} I knew before we met at the hospital. The others I just happened to know at the hospital.

Now, which are the four you met before going to hospital? --- The person with the green-blue shirt, and the one next to him. (Witness stands down and points out accused Nos. 24, 27, 41 and 65).

BY THE COURT:

Is that all you can point out? --- Those people I have pointed out I know very well.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Did you see any of these four on the Sunday before the day of the shooting? --- I saw the one right at the back. (Witness points out accused No. 65).

BY THE COURT:

Anybody else, i.e. on the Sunday? --- That is the person I saw on the Sunday.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Where did you see him? --- I saw him at his home where he resides. I was walking past his place in the street on my way to work.

By/....

THE COURT:

Oh, in the morning? --- I was from my break, my interval.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Oh, your interval of duty at the bus company? ---

Is that the only occasion on which you saw him on the Sunday or the Monday? --- I saw him on that occasion on Sunday, and I again saw him on Monday there at the Police Station.

What time was that? --- When?

When you saw him at the Police Station on the Monday?

--- It was ten o'clock or after ten. I did not look at the time.

Did you speak to him at all? --- No.

When you saw him which side was he of the Police Station, on the southern side or on the western side? --- On the western side.

How far was he from you? --- As far as that hat in the corner, that coat.

BY THE COURT:

About eight paces away.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

What was he doing when you saw him? --- He was stopping people from going inside the gate. I heard him saying "Do not come near here!" He was saying that in the Sesuthu language.

Did you see what ultimately happened to him? --- No.

Now, the other three that you have mentioned, i.e. Nos. 24, 27 and 41, did you see them either on the Sunday or the Monday?

BY THE COURT: Well, why not take them one by one? No. 24,

I/....

I want you to stand up please. --- No, I did not see accused No. 24 on the Sunday or on the Monday.

The next one, No. 27? --- I did not see accused No. 27 on the Sunday or on the Monday.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

And No. 41? --- I also did not see accused No. 41 on those days.

Now, you mentioned something about somebody at a bus stop, and I said that we would return to that later. What were you about to say in respect of that bus stop? --- That person I say I saw there at the bus stop on the Sunday I have known before by sight, but I did not know that he was Tsolo. I heard from other people who gathered there; when they told him to go away they said "Tsolo, go away here!"

What was he doing there, this person whom they called Tsolo? --- He was speaking when they told him to go away.

Did you hear what he was saying? --- At that time I was also busy loading the passengers into the bus, but I heard him when he said "We request you not to go to work tomorrow".

Was it on a Sunday? --- He continued and said "We should come and meet here at this square tomorrow, men and women!".

BY THE COURT:

Mr. Prosecutor, do your Further Particulars cover speeches by anybody called Tsolo, not an accused or a member of the P.A.C. or anything like that? I just want you to make sure please. Are you going to ask me to infer that Tsolo was one of the accused, or that Tsolo was another person, and if he was another person what common purpose is there alleged between/....

between the accused and this man Tsolo? I have an idea you have alleged it somewhere. I am just not certain, and that is all I want to know.

BY THE PUBLIC PROSECUTOR:

Yes Your Worship, there has been alleged in the particulars..... The inference which can be drawn Sir is that we have an accused - I am taking a hypothetical case, Sir, I am not going to say that it is so - that we have an accused corresponding in name to the name of the witness mentioned. Perhaps later on there might be direct evidence of identity, otherwise the Crown might ask Your Worship to take into consideration the other proved facts, to draw the inference that it must be one of the accused whose name corresponds with the man the witness mentioned, who is that person.

BY THE COURT:

I will leave it at that for the time being.

BY THE PUBLIC PROSECUTOR:

Your Worship will see on page 6 of the Particulars to count 2 there is mention made of one Job Tsolo, who is a member of the Pan Africanist Congress.

BY THE COURT:

Yes, all right. Is there any mention of Job Tsolo in regard to count 1 anywhere, i.e. in regard to Public Violence?

BY THE PUBLIC PROSECUTOR:

No, not yet Sir.

EXAMINATION BY THE PUBLIC PROSECUTOR: CONTINUED:

What were you saying? He requested you not to?
 --- "We request you not to go to work tomorrow. Men and women should gather here at this square, and then from here we will
 then/....

then take a march to the Police Station to take the complaint about the passes. Women now also carry passes, and we should not leave them behind. We should go along with them so that they can hear for themselves. There is no fighting. You should not be afraid, because we are going to surrender ourselves. If they see that there is anything wrong then they should lock us up. We do not want any person who comes carrying a dangerous weapon or a fighting weapon. You should come here with peaceful spirits. Our complaint is only one that is about this burden of a pass". After having said these words this person then went down the street, and I also then drove away in the bus.

Can you describe this man who was making this speech?

--- I can describe this man to a certain extent, where I can still remember his features. He is light in complexion. He is not tall, he is of an average height. He is not a person who is heavily built, but he is just average. He is slightly of my body build, but not equal in size with my body. He is slightly below my build. Those are the features of his body I can describe.

Now, I would like accused No. 3 to stand up and I would like you to look at him for a moment, and I will ask you a question after you have looked at him. How would you describe accused No. 3? --- No, this person is not heftily built. His bodily features are not the same as that one.

I am only asking you to give the Court a description in your own words of No. 3 accused as you have now looked at him? I am not asking you to draw a comparison. --- He is also light complexioned. He is not tall and he is not heavily built, but he is of a slight build. That is all.

Now, did you notice whether this man who made this speech/....

speech had anything attached to his clothing, any emblems? --- There was a small piece of "letter" which was attached here to his lapel.

Did you notice what was on it, whether there was anything written on that piece of paper or letter? --- Yes, there was something written on it but I cannot say what it was.

Did you see any similar pieces of paper stuck up anywhere in the vicinity of the bus stop? --- I again saw letters of a similar nature on those passengers who boarded the bus, and who happened to come close to me, and then I noticed that something was also written on them.

Did you notice what was written on them? --- There was written "P.A.C."

At that time did you know what the letters P.A.C. stood for? --- No.

Do you perhaps know what the letters P.A.C. stand for today? --- Until today I do not know what the letters P.A.C. mean.

Who were the people who told this man who was making the speech to move on, or to go away from the bus stop? --- I cannot say who they were. I do not know.

What I want to know is whether they were civilians or officials of some sort? --- I cannot say whether they were officers or not, but they were dressed in the ordinary way, like any other civilian person.

Now, this man, this speaker that you saw on the Sunday, did you ever see him again after that Sunday? --- I again saw him on the Monday.

Where was he when you saw him on the Monday? --- He was at the Police Station when I saw him again.

What time was that? --- It was before dinner time,

in/....

in the morning hours.

Try and establish the time some other way. On which side of the Police Station were you when you noticed this man? — I was standing at the corner of Zwane Street and the street which runs from the café across Zwane Street.

That is the unknown street going past between the Police Station and the clinic? — Yes.

Was that before or after the aeroplanes came over? — At the time of the aeroplanes.

And on which side of the Police Station was this man? — On the western side, where the sun sets.

And on which side of the fence was he? On the street side of the fence or on the Police Station side of the fence? — It seemed as if he was a person who was proceeding upwards, and who kept on calling on the people and saying "Africans! It is said that you should follow me to the field, to the grounds!". It seemed as if this person was going upwards. It was the football field grounds.

Did anybody pay any attention to him? — Most people remarked and said "We are not going to the field there. What they want to do is they want that the aeroplanes should fall on us. They must say what they want to say whilst we are standing here".

Did you see any groups leave the vicinity of the Police Station in response to this request and go up in the direction of the football grounds? — No.

Did you hear this ^{man} make any other announcements other than this which you have just told the Court about? — No.

And what happened to this man who had made this announcement? What eventually happened to him? Did you see? — I do not know what eventually happened to this person,

and/....

and whether he again went back or he proceeded there, or in which direction he went.

Now, did you ever notice at all any person dressed in a uniform, a khaki uniform or some uniform from which you could make an inference that he was a Policeman, address the crowd at all? --- No.

Now, after you had been shot and lay in the street wounded, was there a Bantu male who came along amongst the wounded? --- An ordinary person who is not a Constable?

Yes? --- No, he did not come to me.

But did you see any ordinary person walking about amongst the wounded and the dead? --- There were many persons who walked about at the dead and the wounded there, and the Police drove these people away or chased them away.

Do you know anybody by the name of Motho? --- Yes.

Who that? --- I only know that name, that he is Motho.

What is he? Do you know what he does? --- He is working at a store, at an outfitter's store here in town.

Did you see him at all that day? --- After I had fallen there at that spot, and after the firing had stopped, he walked past me just below my legs, between my legs and the fence, with his hand lifted up in the manner I now indicate, as if he was stopping something. (Witness demonstrates to the Court).

In relation to the Police Station in which direction was he facing? --- He was from the café side and proceeding towards the big western gate.

BY THE COURT:

I am now hearing about a café for the first time. Where is that?

By/....

BY THE PUBLIC PROSECUTOR:

I am not interested in the café Sir. I will clear that up for Your Worship.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Let us just get this point cleared up. The café, is that contained in the shops which are at the end of this street that runs between the clinic and the Police Station?

--- Yes.

Those are the shops shown on Exhibit 13 right at the top lefthand corner? --- Yes.

In that block of buildings there, is that where the café is? --- Yes.

Now, prior to this day, or this weekend rather, had you ever received any pamphlets or letters in the post? --- No.

Thank you, Your Worship.

CROSS-EXAMINED BY MR. UNTERHALTER:

Mr. Mota, you were telling us about what you heard on the Sunday afternoon at the bus stop? ---Yes.

Now, among the things that you heard did you hear any reference to Europeans? Was the word European used in any context? --- Yes.

Can you remember what was said? --- If I am not making a mistake something was said to the effect that "We should go and complain to the Europeans because these passes are giving us a difficult time, we are having ^{difficulty} difficulty," and so they should go and complain to the Europeans.

Did you not hear it also said "We are not going to fight with the Europeans"? --- Yes.

"We just want to ask them to alter this Pass Law because/....

because it is hard on us" --- Yes.

Now Mr. Mota, you told us that you saw No. 65 accused i.e. the man who is standing up now, at the Police Station on the Monday morning? --- That is correct.

He is going to say that he was at the Police Station before the aeroplanes came. Would you agree with that, and was it at that time that you saw him? --- I saw him when we came from the trees, when we returned from the trees.

That was very early in the morning? --- It was not very early in the morning, because it was after eight o'clock.

Now, you said that you were standing near the western fence and could see the double gate in the western fence? --- Yes, that is correct.

Did you perhaps witness the arrest of a man who was wearing a hat? --- Yes.

Can you tell us whether or not you saw this man being hit whilst he was being arrested or removed to the Police buildings? --- Yes.

Now, did you also see the Police being lined up inside the Police grounds? --- Yes.

You told His Worship in your evidence-in-chief something about some vehicles coming with an important man? --- When the three vehicles entered, in view of the fact that there were three of them which were alike, the people who were standing a distance away from that area where they entered then came nearer, and I had the impression that that was the official, the European they were waiting for.

And did you hear something to that effect spoken among the people who were in a crowd with you? --- Yes, that that is the important or the big European.

Now, when you saw the Police being lined up, did you/....

you connect it in your own mind at all with the arrival of the important person? ---When I immediately saw the Police being lined up there, I was then under the impression that they were saluting that big European or the important European who was arriving there.

You had been standing in that crowd for several hours, had you not? --- Yes, I was there for several hours.

You had an opportunity during that time to observe the behaviour of the crowd generally? --- Yes.

Up until a little time before the shooting would you say that this crowd was a wild and dangerous crowd, or was it a friendly and well mannered crowd, i.e. on the whole? --- As far as I could see this crowd or make it out it appeared as if it was a good mannered and respectable crowd.

As far as the carrying of weapons is concerned, would you say that there were very many people in this crowd carrying dangerous weapons such as knives, or less dangerous weapons such as sticks, or on the whole were there very few sticks to be seen? --- When I saw the crowd in general I did not see any individual or individuals carrying any weapons, with the exception of the old people who walked past that area there and who then had their usual sticks with which they support themselves.

Now, you heard the shooting from the Police? --- Yes.

Before any shooting started from the Police side, did you perhaps hear any shots coming from the crowd? --- No.

Were you surprised when the shooting started from the Police? --- I was surprised but I did not think that they were shooting with something which kills.

What did you think that they were shooting with?

I/....

---I thought that they were firing with the bullets which were used during 1959. Those bullets were the ordinary bullets; they don't cause any danger, and they only spark off and cause some flames.

Do you mean to refer to what is known in English as a blank? --- Yes, that is correct.

As a result of hearing the Police firing did you immediately turn and run away, or what did you do? --- I stood there for some time, being under the impression that they were just frightening the people there and that they did not mean to shoot them actually.

When did you first realise that they were firing bullets that could kill and wound and not just blanks? --- At the time when I stood there and watched I saw just flames, i.e. smoke, going up, and at the instant when I turned to look in the direction of the shops it was then that I was hit by the bullet. I then realised that they were firing with something that could wound and injure a person.

Now, immediately before the Police fired, was there anything in the behaviour of the crowd which in your opinion justified the Police in opening fire?

BY THE PUBLIC PROSECUTOR:

I object Sir!

BY THE COURT:

I am allowing the question.

BY THE WITNESS:

In the group in which I was on the western side there was not even a small thing which justified that.

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

Now, you were hit, and I take it that you fell where
you/....

you were standing? --- I just fell at that spot.

BY THE COURT:

You fell where you were shot? --- Yes, Your Worship.

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

After you were hit were you able to see and hear what was going on around you? --- Yes, I did see after the firing had stopped.

Now, was it then that you saw this man called Motho? --- Yes.

And it was then that you saw Motho raise his hand as you indicated in your evidence-in-chief? --- Yes.

Did you hear the Police say anything as Motho raised his hand? --- Yes.

What did you hear being said? --- "Jy moet 'n wit sakdoek om daardie hand van jou sit. Ons skiet jou nou dood bliksem!"

Now, did he reply to this, i.e. when the Police used these words to him? --- He did not reply.

Did he go on? --- He continued walking towards the direction of the gate.

Did you hear any other Europeans talk to him? --- I again heard one saying to him "Waar gaan jy?"

And what did he say, if anything? --- He then replied and said "Wat gaan hier aan? Kyk hoe lê die mense hier dood?"

Did he comment on what they had perhaps done? --- I then heard another European saying "Hoekom vra jy nie jou eie mense nie? Hoekom vra jy vir ons?"

When Motho had used the words "Kyk Baas hoe lê die mense dood", did he say anything about what these people who were lying around may have done before they were killed? --- No. He only said "Wat het die mense gemaak?", i.e. Motho.

Did/....

Did he answer his own question when he said „Wat het hulle gemaak?“. — Answering his own question in what way?

Well, he said „Wat het hulle gemaak?“, and did he add anything to that? „Kyk hoe lē die mense dood! Wat het hulle gemaak?“, and did he add anything after that? — At that time he was then chased away.

He did not perhaps say after the words „Wat het hulle gemaak?“ the word „Niks!“? — Yes, that he did say when he asked.

Now, the man who had told Motho to put a white rag round his hand, did he have any station? Was he any particular kind of person? — It was a European Policeman.

Do you know if he did anything in relation to you, i.e. this European Policeman in relation to you, the witness? — While I was lying there I was chewing my chewing gum. While I was lying there he then said to me.....I cannot remember whether he said "Donder" or "Eliksem", but „Hy kou nog! Staans op! Ons het jou nie geskiet nie, staans op en loop! Ons gaan jou nou nog skiet as jy hier bly lē!“

Now, when he said that Mr. Mota, what did you do? — I only pointed ^{it} out to him with my hand, indicated. When I pointed that out to him he said "There is no blood coming out there. We have not yet shot you!".

In fact at that time were you bleeding? — There was no blood coming out, but some fat was coming out.

And was that visible? Could anyone looking at you see that the fat was protruding? — Yes, that ^{fat} was not actually protruding out, but it was sort of coming out.

Yes, was it visible? — Yes, it was visible.

BY THE COURT:

Under your trousers or how was it visible? — It was/....

was visible on the trousers.

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

Was there a kind of discolouration there? Is that what you are saying? — Yes.

Now, did this Policeman give you an order to do anything? — While I was lying there?

Yes? — Yes, what he told me was that I should get up and leave that spot because I had not been injured, they had not shot me.

And did he say what he would do if you did not get up and obey him? — He said "If you continue lying here we would shoot and kill you".

What did you do Mr. Mota when he gave you this order and uttered this threat to you? — I again pointed out to him the same spot I had pointed out before, and said "Julle het my geskiet hier Baas".

Did you hear any comment from any other European who might have been near this Policeman who threatened you? — No, I do not remember.

Now, were you later assisted into any vehicle? — The Native Constables came there and lifted me up from that spot and placed me next to the clinic fence.

From there did you have a view of the fence across the road, i.e. the western fence of the Police Station? — Yes.

Did you see any bodies lying about in the street as you lay there? — I did notice a body which was across the street, on the side where I previously lay. It was just a few paces away from that spot, and his name was ^{Phowe} Fawse. I don't know whether it is Phoho or Phowe.

Before you were moved from where you lay when you had been shot, did you also notice some bodies nearby you? —

On/....

On that side where I previously lay it was only the two of us, myself and that other man, but because he was a distance away it appeared as if he was shot whilst in the act of running away.

And as you were carried across the road as I assume you were to the clinic fence, did you perhaps see any bodies lying in that street between the clinic and the western fence of the Police Station? --- On the western side of the street there were bodies, because where I was placed I was also placed next to the body of one Maselo. In the same vicinity there were others who were crying and shouting and saying they should be helped too; stretchers should be called for them, so that they could be helped. They were bleeding but they were not yet dead. They were next to the clinic fence.

Mr. Mota, I am going to show you a photograph of the scene just immediately after the shooting, and I wonder whether after looking at it you could tell His Worship whether this bears any resemblance to the scene as you saw it, either when you lay on the western side or when you lay on the clinic side or as you were being carried across the street?

BY THE COURT:

Was this taken from inside the Police grounds?

BY MR. UNTERHALTER:

It would appear to be so Your Worship.

BY THE WITNESS:

Is this Zwane Street? I am a little confused about the area.

BY MR. UNTERHALTER : CROSS-EXAMINATION CONTINUED:

It appears to be a portion of the road running off Zwane Street and going towards the double gate. In other words, the southern portion of the western fence. Does it bear any resemblance/....

resemblance to that? --- What confuses me is that block of houses there.

The block of houses I think it is clear must be in Zwane Street, but the fence appears to be running at right angles to that. --- Seeing that those people who are standing there are standing near those houses which are situated in Zwane Street....

BY THE COURT:

Anyway, can't we get to the question as to whether that more or less resembles the scene as you saw it at any stage? --- Your Worship, it is difficult for me to say what stage this photo resembles, because if there was some object with which I could fix the spot where I was standing, or where I was the first time after I had been injured, it would be better.

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

Let me put the question to you in another way. You were carried across the road that divides the clinic from the western entrance to the Police Station? --- Yes.

As you were carried across did you notice any scene in that street or round the corner in Zwane Street, somewhere near you, that resembled what you see in that photograph? --- Yes. I saw something which resembles what appears in the photo on the clinic fence.

Now Mr. Mota, I would like you please to look at Exhibit 84 again for a moment, with particular reference to the fence. Now, as you lay either on the western side where you were shot, or on the other side to which you were carried, did you notice whether any portion of the fence of the Police Station was similar in its angle to the fence as you see it in that photograph? --- As it is I cannot explain, because those houses, unless I know whether these houses are in the direction/....

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direction of the shops or in the direction of Zwane Street, the clinic as well as the Police Station fence are the same, so I cannot distinguish between the two.

Yes, perhaps I have not made myself clear. I am not asking you in particular in regard to the portion of the fence that you see in the photograph. I am asking you in regard to any portion of the fence on the Police Station side that you may have seen as you lay where you were shot, or you may have seen as you lay on the clinic side? Did it seem to be at the same angle approximately as you see it in the photograph, or if you saw the fence as you lay was the fence at a different angle to what you see in the photograph? --- On the side on which I was the fence was at the angle as it is, i.e. in the position as I see it here on the photograph.

Now, did you as you lay after being shot, notice any people going about among the wounded and dead and picking up stones or weapons? --- No.

Before the shooting did you notice any European Policemen going among the crowd carrying any kind of weapons? --- At one stage I noticed the Police when they caught hold of a person, i.e. an "Umfaan", a boy. He was caught outside the fence and brought in by the Police. He was wearing his private clothes, a sports coat. When they tried to pull this person in his hat fell. When he tried to look back, to look at his hat, then he was struck with the flat hand. He was pushed.

Now, what I want to ask is this. Anyone who went into the crowd, i.e. of the Police, did he have a weapon in his hand, a stick or....? --- I was still going to answer that point.

Well, could you just tell me, was he carrying a stick/....

a stick or anything like that? — He had a short stick, the length of which I now indicate to the Court.

Was it a stick? It was not a "sjambok" or anything like that? — No, it was a stick of that length, i.e. a foot.

Now, there has been evidence that one of the European Policemen was carrying a "sjambok". Did you yourself perhaps see any European standing near the gate with a "sjambok"? — In the morning when the Police arrived there I did see some of them carrying "sjamboks". Some carried the actual "sjamboks" and others carried the home made "sjamboks", i.e. the motor-car fan belts with a stick handle at the back, but at the time of the shooting I cannot say, because at that stage there were so many European Police, who still at that stage carried some of those "sjamboks".

Did these Police merely carry these "sjamboks", or did you see them do anything with the "sjamboks"? — No.

You also told His Worship that you heard someone just before the shooting use the word "Skiet!"? — Yes.

Did you perhaps notice who it was who uttered that word? — No.

Did any people, apart from Police, offer to assist in carrying the wounded or the dead? — Yes, there were very many.

And what was the attitude of the Police to these people who wanted to assist? Did they welcome this assistance from the civilians? — I cannot say, because in the first instance the Police drove away those people who wanted to assist, but eventually they just left them alone and they assisted there in carrying.

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

Re-examined/....

RE-EXAMINED BY THE PUBLIC PROSECUTOR:

What type of hat was this man wearing whom you saw being arrested? — It was a hat. I cannot say what type it was.

I will give you a whole selection. You get these straw hats, you know the Basuthu hats, and then you get the ordinary felt hat, you get the peak cap....? — It was an English hat.

An English hat? — Yes.

You would not call a Basuthu hat an English hat, would you? You know, the ones that are woven out of straw? — No, it was not a Basuthu hat which is made of grass or something like that.

How would you describe this hat?

BY THE COURT:

Well, I think I have heard enough about the hat, Mr. Prosecutor.

BY THE WITNESS:

It was a grey hat.

BY THE PUBLIC PROSECUTOR:

As long as Your Worship is satisfied that it is this type of hat.

BY THE COURT:

I am satisfied what this witness is saying. I am not satisfied what hat it is. I'll go into that one day when I have to give judgement!

RE-EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Did you hear what this man said before he was smacked as you say he was, before he was struck? — I did not hear what he said but I only heard this European who was wearing private clothes saying: „Kom hier, kom hier, kom hier“, repeating/....

repeating that several times.

Have you had any previous experience before of how Police set about saluting anybody that comes along, i.e. anybody of high station? --- I have never seen Police saluting, but I have seen soldiers saluting, and I took it to be the same.

What made you think the Police would use blanks? --- Because I did not see anything wrong done by the black people who were there, which could have caused the Europeansto kill.

Yes, but I think you agreed with my learned friend that they were frightening the people? --- I thought they were frightening the people to go away from there.

Were you in any pain as you lay there? --- At that stage I did not feel much pain.

Did that only set in later on? --- I only felt great pain when I was being lifted up ^{from} there and placed in the ambulance.

BY THE COURT

I want to know from you why you did not get away from the trees? Why could you not leave? I am talking about you and the other bus drivers? --- Go where, Your Worship?

From the place where you had been taken to in amongst the trees, or near the trees, by the people during the Sunday night? --- Your Worship, we could not go anywhere because on all sides we were told that it was the same thing.

What was the same thing? --- People are not going to work.

Just because some youngsters tell you "People are not going to work", therefore you and a lot of bus drivers stay in the trees? Is that right? --- Yes.

Are you people ^{afraid} of these youngsters then? --- Yes, we do respect them, because we did not want to make any trouble with/....

with them, and then tomorrow it would be said that it was the Vaal Transport drivers who caused the trouble.

As far as I could see and from what you say these people were causing the trouble by holding the transport drivers away from their work! Now, I want to know why a number of transport drivers - I don't know how many you were - could not walk away and go to their work? --- I personally wanted to hear what was eventually going to be said, and what was eventually going to happen about the passes.

I am concerned with the night hours. You were taken in the night to near the trees. Before the buses had to start running why could you not walk away and go and do your work on the buses? --- From there where could we have gone to?

To your work! In the way which you ordinarily do! --- We could not, because we only had to follow the one route which passes through these people, and we could not do that.

How many of these people were there then that you bus drivers could not go past them? --- I did not count them but there were many.

COURT ADJOURNS UNTIL 3.1.1961.