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27 JANUARIE 1961.

HOF HERVAT : VERSKYNINGS SOOS VOORHEEN.

Die Publieke Aanklaer reep:

JOHANNES PETRUS CHRISTOFFEL VAN ASWEGEN, beëdig, verklaar:  
VERHOOR DEUR DIE PUBLIEKE AANKLAER:

U is 'n Kenstabel in diens van die Suid-Afrikaanse Polisie gestasieneer te Vereeniging? --- Dit is reg.

Op die 21ste van Maart verlede jaar was u by die Sharpeville Polisiestasie tydens die skietery? --- Dit is reg.

En was u 'n lid van die Polisiebeamptes wie in gelid gestaan het op 'n bevel van die Offisiere aan die westelike kant van die Polisiestasie? --- Dit is reg.

Was u deur enige voorwerpe getref daardie dag? --- Ek was deur 'n klip getref.

Waar het die klip u getref? --- Hier aan die buitekant van my hand. Toe die klip kom het ek my geweer in my hand gehad en ek het hom probeer afweer en toe het die klip my hand teen die geweer self vasgeslaan.

DEUR DIE HOF:

Jy wys jou regterhand? --- My regterhand ja.

VERHOOR DEUR DIE PUBLIEKE AANKLAER VERVOLG:

Omtrent hoe groot was die klip? --- Dit was omtrent die grootte van 'n normale man se vuus.

Het jy enige beserings opgedoen? --- Dit het net 'n bloedblaas gemaak waar dit teen die kelf vasgehoen het, d. aan die vuiskant.

Vanwaar het die klip gekom? --- Hy het van die skar afgeken wat voor die hek was.

Het/....

Het u enige ander klippe gesien eerken vanaf die skare? — <sup>Heelparty</sup> Heelparty ander klippe, baie ander klippe.

Neu, net voor die klippe eergeken het, was daar enige ander geluide wat u geheer het of opgemerk het vanaf die skare se kant? — Wel, 'n geweldige geskree. Party het duine in die lug opgesteek en "Afrika!" geskree; 'n groot lawaai.

Het u enige ander geluide geheer? — Ek het 'n dewwe slag sees die geknal van 'n geweer of 'n pistool geheer.

Heeveel het u geheer? — Ek het een geheer wat ek duidelik ken anderskei.

En van watter kant het dit gekom? — Oek uit die bendel waar die skare saangedrom het.

En daarna het gebeur? — Toe het ek gesien daar is 'n wersteling by die hek van die Polisiestasie.

Ken u Kolenel Spengler? — Ek ken hom nie. Ek het maar agterna geheer daardie dag dat dit Kolenel Spengler was wat by die hek was.

Was hy toe by die hek toe die wersteling plaasgevind het? — Hy was by die hek gewees.

En wat was die volgende ding wat daar gebeur het by die hek? — Wel, die merendeel van die skare het toe op die hekke afgedrom en by die hekke probeer inbreek, en ek was vas oertuig dat hulle probeer neu en by die hekke in te druk.

En volgens die lui van die skare wat het dit vir u gelyk die skare wil doen? — Hulle was kwaadaardig; dat dit hulle bedoeling was om kwaad te doen.

Het u oek daardie dag geskiet? — Ek het geskiet.

Dankie, Edelaagbare.

CROSS-EXAMINED BY MR. UNTERHALTER:

Mr. van Aswegen, did you see this stone coming towards you? — Op 'n kort distansie, toe hy deur die lug kom entrent/....

entrent se drie, vier treë van my af; se daar was net kans om die geweer op te lig en dit te probeer afweer.

But having noticed it, by your movement you were able to avoid the stone hitting your body and take the impact on your hand? — Ja.

Now, you said that you heard a dull sound coming from the crowd. What did it sound like to you? — Sees die klank van 'n gewone vuurwapen, die dowwe slag van 'n vuurwapen, of die klank van 'n vuurwapen.

Now, did it come from immediately in front of you or somewhat to the left or somewhat to the right of where you were standing? — Vanwaar my posisie was aan die regterkant.

Did it seem a long distance away or fairly closeby? — Ek sal sê nie baie ver nie, want die lawaai was so groot dat as dit ver was sou ek dit nie ken hoor nie.

Now, you said that you saw a struggle at the gate and there was present there a person whom you subsequently learnt was Colonel Spengler? — Dit is reg.

And then you saw some of the crowd coming through the gate? — Dit is reg, by die hek inforseer.

Mr. van Aswegen, is it not possible that the crowd came through the gate at that time because there was great pressure on the people in the front from people at the back of the crowd? — Nee, want party was 'n paar treë fees uit hulle eie beweging.

It was a tightly packed crowd, was it not? — Die linie was styf opgepak, maar sees ek reeds gemeld het daar was 'n paar wat les veeruit geken het.

And before the gate was opened the crowd was pushed up quite hard against the gate? Is that not so? — Hulle was veer teenaan die hek.

So/....

So I put it to you Mr. van Aswegen, in these circumstances if the gate is suddenly opened <sup>then</sup> the people in front pressed against the gate would obviously spill over into the Police grounds? — Edelaagbare, as ek mag verduidelik? Sommige ken, toe die hek oopgegaan het, verentee gedruk gewees het, maar dit het duidelik geblyk dat daar van die persone was wat verentee uit die beweging gekom het en — so het dit vir my veergeken — die persone wat daar in 'n wersteling was te bevry.

Well then let's put it this way. From what you observed some of the people may have entered the grounds voluntarily, but others who entered may have come in involuntarily having been pushed by the crowd? — Dit mag meentlik wees.

How many shots did you fire? — Ek het sewe skote gevuur.

From a .303 rifle? — Dit is reg.

Did you hear an order to fire? — Nee.

Did you fire perhaps because you heard others firing and you thought you may not have heard the order and you ought to fire? — Op daardie oomblik het ek gesien dat my lewe en my makkers se lewe is in gevaar en ek het die wapen gebruik en myself te beskerm asook my makkers.

Did you ever discuss after this incident your reason for firing with some of your Police colleagues who were on the Police grounds that day? — Nee.

Not at any stage? — Alleenlik 'n tydjie nadat ons gevuur het was die greep weer geparadeer, en daar was van elkeen 'n opname gemaak van of hy gevuur het en hoeveel rondes hy gevuur het.

During all these months since March of last year have you not heard other Police who were there talking and saying "Well, I shot because my life was in danger"? — Nee,

die/....

die ding was nooit eers bespreek nie, en daar was nou nooit juis iemand wat vir jou 'n rede gegee het hoekom hy juis gevul het nie, omdat elkeen reken ek was bewus hoekom hy gevul het, met die gevolg dit was nooit bespreek nie.

You were stationed at Vereeniging on the 21st March of last year? — Dit is reg.

Were other members of that station also involved in the shooting on that day? — Daar was, maar ek sal nie kan sê wie hulle was of wat hulle name is wat geskiet het nie.

And you have not since that day ever sat down with other members of the Vereeniging station and gone over the events of that day with them and compared notes? — Nee.

Thank you, Your Worship.

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

NO RE-EXAMINATION BY THE PUBLIC PROSECUTOR.

JACQUES GIDEON CORNELIUS TREDOUX, beëdig, verklaar:

VERHOOR DEUR DIE PUBLIEKE AANKLAER:

Is u 'n Konstabel in diens van die Suid-Afrikaanse Polisie gestasioneer te Vereeniging? — Ja.

Op die 21ste Maart verlede jaar was u by die Sharpeville Polisie-stasie te Vereeniging tydens die skietery? — Ja.

Na die skietery eer was wat het u gedeen? — Ek het tussen die gewondes en die dooies rennbeweeg.

Vir watter deel? — Om hulle te help. Ek sal sê die gewondes te help en te kyk wie gewond was en wie dood was, en sedende hulp te verleen.

En/....

En terwyl u se redbeweeg het het enigiets u aandag getrek? — Ja.

Wat was dit? — Dit was ongeveer drie of vier Bantees en 'n blankeman wat ongeveer 'n tien tot 'n vyftien treë van my af gestaan het. Die blankeman was besig om sy hande aan 'n kember wat om die Bantee se belyf gehang gewees het af te vee. Hy het toe die kember voor die Bantee se lyf weggetrek. Ek het toe opgemerk dat 'n byl veer by die Bantee se breek met die steelkant by sy breek ingedruk is. Ek het na die Bantee aangestap en toe ek ongeveer 'n vyf treë van hom af was het hy die byl uitgeruk, op die grond gegee en weggehardleef.

Het jy toe die byl in beslag geneem? — Ek het die byl in beslag geneem en dit ingehandig.

Het u deur die bewysstukke veer die Hof gekyk en te sien of u daardie byl ken opspeer? — Ek reken ek sal nie meer die byl kan uitken nie.

Nou, wie was hierdie blankeman wie sy hande aan die kember afgevee het?

DEUR DIE HOF:

Maar het u die bewysstukke deurgekyk? — Ja, ek het dit deurgekyk.

Het u byle gesien tussen die geed? — Ja, daar is byle.

Daar is byle maar u kan hom nie uitken nie? — Nee.

VERHOOR DEUR DIE PUBLIEKE AANKLAER VERVOLG:

Nou, die blankeman, was hy 'n lid van die Polisiemag? — Nee, hy was nie 'n lid van die Polisiemag nie. Hy was 'n privaatperseen.

Waar het die veerval plaasgevind in vergelyking met die/....

die westelike hek of die suidelike gedeelte? — Ongeveer vyftien treë van die noord-westelike heek. Met ander woorde, van die noord-westelike heek af na die winkels.se kant.

Hee lank nadat die skietery oor was het u uitgegaan? — So te sê onmiddellik. Toe hulle begin uitgaan het ek saam met hulle uitgegaan, en ons het tussen die gewendes reënbeweeg.

Sal u in staat wees om die Banteeman weer uit te soek as u hom sien? — Nee, ek glo nie.

Nadat u hulp verleen het daar tussen die gewendes en seëns, wat het u toe gedoen? — Daarna het hulle my toe afgestuur na die hospitaal toe, toe hulle die gewendes begin wegvat het.

DEUR DIE HOF:

Jy is waarheen gestuur? — Na die Vereeniging hospitaal toe het hulle my gestuur, Edelaars.

VERHOOR DEUR DIE PUBLIEKE AANKLAAR VERVOLG:

Veel dit het u enige ander pligte daar uitgevoer by die Polisie-stasie, d.i. enige goed miskien opgetel of soets? — Ek het 'n paar klippe ook opgetel binne-in die Polisie-grense.

Aan watter kant was dit? — Dit was ook meer na die noord-westelike kant se heek toe.

En wat het u met die klippe gemaak? — Die klippe was ook ingehandig.

Omtrent hoeveel het u opgetel? — Ek sal nie presies kan sê nie, maar ongeveer van sê vyf tot agt klippe.

Het u die klippe wat as bewysstukke ingehandig is by hierdie Hof gesien? — Nee, ek het dit nog nie gesien nie.

Neu, waar was u toe die Polisie geskiet het? — Binne in die kamp, in die Polisie-kamp.

Aan watter kant? — Aan die noord-westelike kant.

Het/....



Het u enige klippe gesien daardie dag net veer die Polisie geskiet het? — Klippe wat gegee gewees het of wat?

Ja? — Ja, ek het gesien.

Vanwaar het hulle gekom? — Hulle het gekom vanuit die skare uit.

En hoe vergelyk die plek waar die klippe geval het wat vanuit die skare gekom het met die plek waar u self klippe opgetel het? — Wel, die skare was omring, d.i. op die plek waar die klippe gekom het.

Ja, maar ek verstaan u nie. Kyk, die klippe het vanuit die skare gekom en dit het op die Polisieperseel geval, nie waar nie? — Ja.

U het toe later klippe opgetel daar op die perseel?

—Ja.

Neu, was daar enige verskil tussen die plek waar die klippe geval het en die klippe wat u opgetel het? — Wel, dit was die klippe wat gegee gewees het wat ek opgetel het.

Ken u daardie Polisieposisie taamlik goed of hoe?

— Ja, ek ken hulle redelik.

Neu, was u deur enige klippe getref daardie dag?

— Nee, ek was nie deur klippe getref nie.

Hoe groot was die klippe wat u opgetel het, d.i. net gemiddeld? — Wel, party hierdie grettesen/party weer kleiner; ek sal sê van drie duim deursnee.....

DEUR DIE HOF:

Hy wys naer sees die ander getuies.

(Geen verdere vrae deur die Publieke Aanklaer nie).

CROSS-EXAMINED BY MR. UNTERHALTER:

Mr. Tredeux, you say that you approached this

African/.....

African who had this axe in his trousers? ---Ja.

And then the axe was pulled out? --- Ja.

Who pulled it out? --- Die Banteeman himself.

And do I understand you to say he then ran away? ---

Ja.

Nobody chased him? --- Nee.

You did not chase him yourself? --- Nee.

Can you say why? --- Ja.

Well, would you tell us why? --- Ek het net so gereken as ek hom agtervolg kan dit weer meeste veroorsaak.

He did not seem to you to be wounded, did he? ---

Nee.

About how long after the shooting did you leave the grounds and start moving around among the wounded? --- Ek sal nie juis 'n tyd kan sê nie, maar toe ons klaar geskiet het en toe hulle uitgaan toe gaan ek saam met hulle uit.

Yes, but would it be half an hour, five minutes...? --- Nee, dit is nie eens vyf minute nie. Dit was seker twee, drie minute op die langste.

Now, you said that you picked up stones inside the Police grounds. Did you pick up stones also outside the Police grounds? --- Nee, ek het nie klippe buitekant opgetel nie.

Did you see anybody else picking up stones outside the Police grounds? --- Nee, ek het nie gesien nie.

You were stationed at Vereeniging on the 21st March. Are you still stationed there today? --- Ja.

Were other members of that station also in the Police grounds on that day? --- Ek dink so. Daar was.

Mr. Tredeux, do you know the last witness, Johannes Petrus Christoffel van Aswegen? --- Ja, ek ken hom.

DEUR DIE HOF:

Jy ken Kenstabel van Aswegen? --- Ja, ek ken Kenstabel/....

Konstabel van Aswegen.

CROSS-EXAMINATION BY MR. UNTERHALTER CONTINUED:

Now, at any time after the shooting did you and he ever sit down and talk about what had happened that day? —  
Nie wat ek my kan voorstel nie.

Did you discuss it with any other Policemen there on any occasion after the 21st March, i.e. talking generally about what happened, comparing notes about what happened to you, what you saw, and what any other people saw? — Nie wat ek my kan voorstel nie.

Was this African wearing this blanket as some Africans - particularly mine labourers - do, like a kind of article of clothing, or did you have the impression he had been covered with the blanket because he was a wounded or injured man and required to be protected by means of something warm? — Nee, ek kan nie sê hoekom hy die kombers gedra het nie. Baie van hulle dra komberse, maar dit was 'n feit dat sy belyf kaal was.

DEUR DIE HOF:

Ja, het hy dit gedra soos baie van hulle dit dra? Ek neem op dieselfde manier? — Ja, op dieselfde manier, Edelaagbare.

(Geen verdere kruisverhoor deur Mr. Unterhalter nie).

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

GEEN HERVERHOOR DEUR DIE PUBLIEKE AANKLAER NIE.

DEUR DIE PUBLIEKE AANKLAER:

Your Worship, I apply for the recall of Sergeant Makabela, in view of the parade Sergeant's evidence, and in view of his evidence.

Daniel/....

DANIEL MAKABELA, duly sworn, states:

EXAMINED BY THE PUBLIC PROSECUTOR:

You are a Sergeant in the South African Police stationed at Vereeniging and you have already given evidence at this trial? Is that correct? — That is correct.

Now, when you last gave evidence you pointed out accused Nos. 3 and 4 as persons whom you had seen in Sharpeville Native Township on the 21st March, 1960? — Yes.

And you also told the Court that you had attended an identification parade at Boksburg on the 19th April last year? — Yes.

Now, Head Constable Laurens, the Officer in charge of the parade which was held on the 19th April, 1960, at Boksburg, has told the Court that you pointed out Azael Kutoane?

BY MR. UNTERHALTER:

Your Worship, I am not sure that this should be suggested to the witness. In my submission it seems as if in informing this witness of what the other witness said is leading him.

BY THE COURT:

It amounts to a leading question, Mr. Prosecutor. He gave his evidence and he told me how many people he pointed out. Am I not bound by that?

BY THE PUBLIC PROSECUTOR:

Yes well Your Worship, I have got to direct his attention in some other way.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

Now, Mr. Laurens has told us that in addition to the two numbers that I have already mentioned you pointed out other persons on the parade. Why did you point out those other persons/....

persons on the parade?

BY THE COURT:

Mr. Prosecutor, I don't know. What was the witness' evidence at the last hearing? I have not got it. I did not know this was going to crop up. Did he at the last hearing say he pointed out two persons only, or did he say he pointed out two persons and others?

BY THE PUBLIC PROSECUTOR:

I am not sure on that point, Sir.

BY MR. UNTERHAUSER:

I might perhaps be able to assist the Court with my note, Your Worship. As I have recorded it he said "I pointed out some persons; there may be six".

BY THE COURT:

And in Court he pointed out two only.

BY THE PUBLIC PROSECUTOR:

That is correct, Your Worship.

BY THE COURT:

Well, I think you can put to him why he pointed out other persons, but I don't think you should mention who they were.

BY MR. UNTERHAUSER:

The date Sir was the 15th December that the evidence was given.

BY THE COURT:

Yes, I have got a copy of the record available if you want it, Mr, Prosecutor.

EXAMINATION BY THE PUBLIC PROSECUTOR CONTINUED:

I will frame the question as follows. Apparently you pointed out more persons on the identification parade than whom you named in Court here. Now, why did you point out the persons/....

persons on the parade at Boksburg? --- It was because I was asked to point out persons whom I saw on the 21st March, 1960, at Sharpeville.

And the persons that you pointed out, can you recall what you saw them doing? --- They were amongst the crowd which was shouting "Africa!". They were also shouting.

Thank you, Your Worship.

NO CROSS-EXAMINATION BY MR. UNTERHALTER.

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

BY THE COURT:

Do I understand you correctly now? You pointed out quite a few people to Head Constable Laurens at the parade at Boksburg? ---Yes.

But here in Court you could only identify two of them, namely accused Nos. 3 and 4? --- That is correct.

But not the rest? --- Not the rest, not all of them.

I think you only pointed out Nos. 3 and 4? I am told so now. --- That is so, Your Worship.

And not the others? --- That is so.

And you cannot say whether the others are in Court or not? --- I have already said that I cannot recollect their faces.

But those others whom you pointed out were amongst the crowd also shouting you say? Would that be a correct way of putting your evidence as a result of your recall this morning? --- Yes, Your Worship.

Very well. You can stand down.

BY THE PUBLIC PROSECUTOR:

Your Worship, would the Court please grant me a  
brief/....

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brief adjournment? I have a witness here, and I would like to interview him before I call him.

BY THE COURT:

Well, we may as well take the adjournment.

COURT ADJOURNS.

COURT RESUMES:

BY THE PUBLIC PROSECUTOR:

May it please Your Worship. I have no further witnesses to call today, and I apply for a remand to the 9th March. Subject to Your Worship remanding the matter to that day I would like to indicate that the Crown will be then closing its case within a few days of that particular day.

BY THE COURT:

Mr. Interpreter, will you explain to the accused that this postponement for a considerable length of time, just about a day short of six weeks, is due largely to the fact that both the Public Prosecutor and myself had long ago been granted leave of absence from our work for that period. Apart from the strain of this case we have done a lot of other work, and I think a rest would not do us or you any harm. I realise, and I speak now to all the accused, that they probably are not working whilst this case is on. They now have a period during which, if they wish to, they can go and work, and go about their own affairs. Now, the Public Prosecutor has intimated that very shortly after the resumption in March he is likely to close the Crown case. I now speak particularly to the six men who are representing themselves, i.e. accused Nos. 1, 3, 4, 8, 38 and 39. You are not represented by any practitioner in this Court, and/....

and you have been conducting your own defence. I am going to explain to you very shortly now what your rights are.

When the Public Prosecutor has closed his case then an accused person may, if he thinks that no case has been made out against him, apply to the Court for his discharge immediately, and the Court may grant that application or may not grant that application. If it is not granted then such an accused person can, if he wishes to, call evidence in his defence, or he can close his case without calling any evidence. If he calls evidence in his defence it can consist of the evidence of defence witnesses whom he wishes to call, and of his own evidence too if he wishes to give evidence. So what you six must go into is the question, if it then does arise, as to whether you want to call any persons as witnesses on your behalf. As you are on bail you should arrange for those persons to come to Court yourselves. If they do not wish to come on a mere request you will have to subpoena them, and you can get your advice from the Clerk of the Court as to how to subpoena a witness and force him to come to Court by order of Court. If assistance is required and you are not in a financial position to subpoena people, the Court will have to go into the question as to whether it will subpoena them at the expense of the State, but I can only do that if I am satisfied that you are not in a position yourselves to do it. Now, most people will come to Court if you ask them to come, without having to use legal process to compel them. If you have to use legal process to compel such a man he comes here unwillingly and he might therefore not really want to give evidence in your favour. However, you will best know what to do.

Then as to what you may do yourselves. An accused person/....

... I am going to explain to you very shortly now what your rights are.  
BY THE COURT:  
...  
BY THE PUBLIC PROSECUTOR:  
...  
BY THE COURT:  
...  
BY THE COURT:  
...  
... You are not repre...



person can, as I have said just now, apply for his discharge. Should he be refused he can close his case without calling any evidence. He can call defence witnesses, and he himself may then do one of three things. He himself may rest with the evidence he has called and not give any evidence himself. He may do that. He may decide to give evidence himself, in which case he will enter the witness box like any other witness and either swear or affirm to speak the truth, and subject himself to cross-examination, in a case like this possibly by other accused if he gives evidence which may count against them, and he will certainly subject himself to cross-examination by the Public Prosecutor, who by his cross-examination may try to prove a man's guilt out of his own mouth, or in any case cross-examine him to test the truth and the reliability of what he says. The third thing an accused may do is that he may, in stead of giving such evidence, make an unsworn statement from the dock. That statement is taken into account by the Court. It depends very much on the circumstances. It may be quite valuable and it may not be of much effect, but the Court must listen to it because it is part of the evidential material before the Court; but as it is not sanctified by an oath or affirmation, and as it is not tested by cross-examination, the Court certainly does not attach so much weight to it when weighing the evidence as it does to evidence on oath. In other words, an unsworn statement is not worth as much as evidence. There used to be a way of putting it to an accused, namely that it is only really worth as much as his attorney's argument, but I don't think that is quite the correct way. The newer approach is it is part of the evidential material before the Court and must be considered by the Court for what it is worth.

Now/....

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 ... you have been conducting ...  
 ... explain to you very shortly ...  
 ... When the Public Pro ...  
 ... an accused person may, if he ...  
 ... out against him, apply to the ...  
 ... lately, and the Court may ...  
 ... want that application. If ...  
 ... accused person can, if he wis ...  
 ... lease, or he can close his ...  
 ... if he calls evidence in his ...  
 ... of defence witnesses who he ...  
 ... evidence too if he wishes to ...  
 ... must go into in the question ...  
 ... whether you want to call ...  
 ... As you are on bail you should ...  
 ... to Court yourselves. If the ...  
 ... request you will have to ...  
 ... advice from the Clerk of the ...  
 ... witness and force him to ...  
 ... circumstances as required and ...  
 ... of subpoena people, the Co ...  
 ... as to whether it will ...  
 ... but I can only do that if ...  
 ... Position yourselves to ...  
 ... Court if you ask them to ...  
 ... process to compel them ...  
 ... compel such a man he come ...  
 ... for not really want to ...  
 ... you will best know ...  
 ... them as to wh ...

2,918.

Now, will you all remember that please, and try to be ready so that we can go on on the 9th March, and proceed forward with the hearing as expeditiously possible from that day forward. I will again remind you of your rights when the Crown does finally close its case, but I thought I would just give you this preliminary warning so that you can meanwhile decide if you wish to what you are going to do. Now, the hearing is postponed and everybody's bail is extended until 9.30 a.m. on the 9th March, 1961.

HEARING POSTPONED TO 9.3.1961.