

S. Stars 326:323.2 (68232) Com

Vol 48

3199-3213

ON RESUMING: 9.5. 1961.

PETER MOLIFE S.S.:

CROSS-EXAMINED BY P.P.: (continued)

On the day you went to the Police Station, that is on the 21st of March, the day of the shooting, you've told the Court that you were wearing a white shirt. Did you have a black bow-tie on as well?---I did not wear a tie at all.

And was your waistcoat buttoned or unbuttoned?---
It was buttoned.

And after you'd been seized by Colonel Spengler, was it disarranged in any form - I mean had it been ripped loose from the buttons at all?---Two buttons were ripped off.

Otherwise it remained fastened?---Yes, the others remained slightly still buttoned.

How many times did Colonel Spengler, that is the first man that seized you, did he strike you?---Twice.

And Sergeant Muller, that is the man who eventually tripped himself, or fell, how many times did he actually strike you?--- He did not touch me at all, but he did make some attempt to strike me.

Would you describe that action of his as using his hands on you?--- First, he tried to slap me on the face with his right hand. In view of the fact that I was taller than him, I just slightly stood back and he missed me. It was thereafter that he then tried to throw me over and he fell himself on the ground.

Would you describe that action of his as using his hands on you? --- I'll demonstrate with the interpreter.

No, it is a question of whether you would describe his actions on you as using his hands on you? ---First he held me with his left hand, but then I noticed that I was slightly taller than him. It was then that he aimed a blow

at/;

ACCUSED No. 76.

at me with his flat hand. I then slightly steed back and he missed, and then he pulled me by my left arm, away.

Yes, accepting that for a moment as being correct, would you describe that by the phrase "He used his hands on me"? ---By using the phrase "He used his hands on me", I mean that with his left hand he got hold of me and with his right hand he tried to slap me and he missed me.

So that phrase "Using his hands on me", is applicable to the actions of Sergeant Muller in this case? ---

Yes, I'm referring to him. That was prior to the incident of trying to throw me over on the ground.

So he never actually assaulted you?

BY COURT:

You mean "He never actually hit you", because assault can be committed without anybody being touched.

P.P.:

Yes, I'll put it that way. He never actually struck you - none of the blows actually reached you?---He never actually struck me.

Now, immediately before Colonel Spengler seized hold of you at the gate, did you see No. 4 accused? ---At that particular moment I had my attention fixed on Colonel Spengler, I did not see accused No. 4 at all.

Prior to your arrest, did you notice anybody else being removed, either inside the police grounds, or from outside, by any official?--- Although I can not recollect very well when I saw between Tsole, that is the former accused No. 3, and Mere, but it was one of them when I saw walking with Colonel Spengler, but then at that stage I did not come under the impression that he was being arrested. But eventually where I was then brought to, where I stood, I found accused No. 4, that is on the precincts of the police...

Was it immediately before you were taken away by
Colonel/..

Colonel Spengler, that you noticed No. 4 accused, or possibly No. 3, being removed?—Yes, that was prior to my being taken in. At that stage, when I saw them, I then came under the impression that he was being taken into the premises, the precincts of the Police Station.

For the purpose of being antanteggeder?—Yes, but then I did not believe at all that he was being taken for the purpose of being an interpreter, because they were moving away from the crowd, inside the Police Station, not towards it.

Did you know accused No. 4 before this day? — I had prior to this day seen him on previous occasions, just like any other person, and I knew him by sight.

And immediately prior to your removal, or simultaneous to your removal, did you hear shouts of "Gate Maner" coming from the crowd? — I did not hear anything which was occurring outside at the stage when I was being removed in, or some shouting.

When Colonel Spengler seized hold of you, did he say to you "Pasboek", or words to that effect, in Afrikaans? — He asked me "Waar is jou pas".

And did you then say to him in English "I beg your pardon", as you're not conversant in the Afrikaans language? — Yes.

Whereupon he repeated his request in English? — Yes, I replied in English.

Yes, but did Colonel Spengler first of all repeat his request to you for the reference book, using the English language? — He only thereafter replied to this request by using the word "Pass".

And did you say to Colonel Spengler "I'm here, grieving for that same book. It has caused me many difficulties? or something to that effect?

BY/s..

BY COURT:

"I'm here...?"

P.P.:

"Grieving for that same book, it has caused me many difficulties."? — I did not alter these words, but I said "My pass book is at home", if I recollect well.

What did Colonel Spengler say to you after that?
—Thereafter it is then that he pulled me to the inside.

And when he commenced pulling you, did you say to him that you surrender to arrest, or you submit for arrest?
— What I said to him at that stage, was it was not necessary for him to have hit me because I did not resist or refuse to go where he wanted me to go.

Do you deny saying to Colonel Spengler "I surrender for arrest, you can arrest me"? — I deny that.

Did anybody from the crowd shout anything at all, whilst this scuffle was taking place between you and Colonel Spengler? — Maybe, but I do not recollect having heard somebody shouting but it is perhaps possible.

Where were you when the firing took place? — I was just immediately behind the inside of the big doors where I had been taken.

Could you see what was going on outside, on the Western section from where you had just come? — I could only see as far as where the police were standing in a line.

Could you hear what was being said outside there before the firing took place? — At that stage I was not thinking of what was happening outside, because I was then surprised at what was happening to me. I did not hear anything.

Now, the manner in which you entered the Western gate has been described by Detective sergeant Muller as "bursting through the gate"? — You see, that is the impression, that you in some manner forcibly propelled yourself through
the/..

the gate into the police yard? ---It is not correct, because I think that even the person who arrested me, did not say so.

You deny that description of the manner in which you entered the gate?---That I deny.

Now, I think you've told the Court that you'd gone to the Police Station for two reasons. You had gone there because of something that had happened to your grandfather, and because you yourself were curious, you wanted to listen to what was taking place there. Is that correct? ---Yes, the first reason is correct. I may add that the second thing that I wanted to go there and listen or hear what the important official was going to say.

And had your curiosity been festered by the fact that you'd received a pamphlet before this particular day? --- No, the pamphlet could not have made me go there because I do not know the person who had written it or issued it.

BY COURTS

Had you received a pamphlet?---Yes.

And it did not influence you? ---No, not at all.

P.P.:

Did that pamphlet make mention that people were going to go to the Police Station to surrender themselves for arrest on that Monday?---I do not remember that it said so, that people should surrender themselves at the Police Station that Monday.

Did you know when you arrived at the Police Station, or when you heard this rumour about a person coming to address the gathering, what he was going to speak about?--- I did not know. Should I have known, then I would not perhaps have gone there. That is why I went there, because I wanted to know, what is going to be said.

Dis...

Did you have any idea of what the subject of discussion was going to be? --- I had an idea that perhaps he would speak something concerning what happened to my grandfather that morning about him having been stepped from going to work.

Were you supposed to be at work that day too? ---Yes.

And you hadn't gone because you were afraid of what might happen to you? ---Yes.

What were you afraid of? ---I was afraid because I'd seen my grandfather return. I thought perhaps if I also tried to go to work, then I would return in the same manner, or perhaps in a more serious way than what had happened to him.

You feared for your personal safety if you went to work that day?---Yes.

Did you find out what these people were doing, why they were preventing others from going to work? --- The only reason I got from my grandfather is that he had been stepped from going to work; that he had been told that people are not going to work, that is all.

You mentioned earlier on that you'd left your reference book at home. Why was that?---My reference book is always kept in my jacket. The Police Station is not far from my home.

So when you took your jacket off, your book would automatically be left behind in the jacket, is that correct? --- Yes.

Is that the only reason, not because you wanted to go to the Police Station to surrender yourself? ---No.

Did you notice the police on the Western section lining up? ---Yes, I did.

And did you notice them loading their firearms? --- I do not remember well, but I think I saw something in that line.

And/...

And were the firearms being pointed towards the people standing on the Western side? ---Yes, where they were facing.

BY COURT:

The policemen were facing West?---Yes.

P.P.:

And did it become apparent to you that with the firearms pointing towards the crowd in that manner, that if shots were to be fired they would strike amongst the crowd? ---That did not enter my mind because I did not think that the police may fire.

But the police guns were facing towards the crowd in that fashion, that if shots were to go off, the bullets would strike amongst the crowd? ---Yes.

And you yourself, I take it, knew that you don't normally point a firearm towards another person unless you intend to cause damage to that person? --- Yes, as an ordinary human being one does expect that if one ordinary person is holding a firearm and pointing at another person, then he expects to do that person some injury or damage, but then, it is different with a police officer. He is pointing a firearm at another person, he, the person who knows the law. One does not expect that he should fire.

Didn't it enter your mind that a policeman will only point his firearm if they are expecting trouble? ---I get the impression that perhaps that was a sign of respect that an important European official who perhaps was about to arrive.

Who put that idea into your head? ---That is just what came into my mind. I was not of the idea that the police may fire.

And you noticed the police Saracens there, didn't you? ---Yes, I did see them.

Did/.

And were the firearms being pointed towards the people standing on the Western side? ---Yes, where they were facing.

BY COURT:

The policemen were facing West?---Yes.

P.P.:

And did it become apparent to you that with the firearms pointing towards the crowd in that manner, that if shots were to be fired they would strike amongst the crowd? ---That did not enter my mind because I did not think that the police may fire.

But the police guns were facing towards the crowd in that fashion, that if shots were to go off, the bullets would strike amongst the crowd? ---Yes.

And you yourself, I take it, knew that you don't normally point a firearm towards another person unless you intend to cause damage to that person? --- Yes, as an ordinary human being one does expect that if one ordinary person is holding a firearm and pointing at another person, then he expects to do that person some injury or damage, but then, it is different with a police officer. He is pointing a firearm at another person, he, the person who knows the law. One does not expect that he should fire.

Didn't it enter your mind that a policeman will only point his firearm if they are expecting trouble? ---I get the impression that perhaps that was a sign of respect that an important European official who perhaps was about to arrive.

Who put that idea into your head? ---That is just what came into my mind. I was not of the idea that the police may fire.

And you noticed the police Saracens there, didn't you? ---Yes, I did see them.

Did/.

Did you realize that that was a type of military vehicle, an armoured vehicle? ---I've never been there at a military camp. I saw them for the first time there.

A very imposing and fearsome looking vehicle, isn't it? --- Yes, it is quite a big vehicle, but then it is not different from other big vehicles which one comes across.

BY COURT:

You didn't think that the Police Commandant goes for a Sunday afternoon joyride in that sort of thing, did you? ---I took these vehicles as ordinary vehicles. They did not at all frighten me when I saw them.

P.P.:

Did you perhaps think that they were coming there to salute the official who was coming at 2 o'clock? --- I did not think anything about the Saracens. What I knew were the firearms which the police had. I was looking at these firearms which I knew.

Why were you concentrating on the firearms? --- I had my attention fixed on the firearms, the guns, which the police had whilst they were standing there, because I saw them lifting them up, putting them on the ground again. I then came under the impression that it was respect they were going to the important official who was coming.

Was anybody arriving at that stage, when the police-men were doing that? --- The important official had not yet arrived at that time, but then I thought perhaps they were now under the impression that he was about to arrive, and they were preparing. I did not know how did he look like, but I think that he did not yet come.

Did you at any stage tell the crowd to keep quiet? ---All the people who were in front there, told the others who were in that immediate vicinity to keep quiet, so that they could hear what Colonel Spengler was going to say, and..

Did/...

Did you tell the people to keep quiet?---I also then told these in front of me to keep quiet so that I could hear what Colonel Spengler was going to say.

So there must have been a noise going on before the people were told to keep quiet?--- Yes, at that stage people were conversing, and others were singing, and one could not hear if perhaps this official was saying something, what he was saying.

Now, earlier on that morning, were you on the Zwane Street side, that is the street with the island in the middle? --- Yes, I did walk past that area to the - proceeding to the Western side of the Police Station, I didn't stop.

And did you see No. 3 accused there, speaking to a police officer? --- I still recollect very well, seeing that I saw him when he came from the direction of the Europeans and telling people that they should get off the clinic roof.

BY COURT:

They should get off?---Get down the clinic roof. They were sitting on the roof.

P.P.:

Would you mind answering my question. Did you see him speaking to a police officer? ---I do not remember that, I did not see him.

COURT ADJOURNS.

COURT RESUMES:

PETER MOLIFE s.d.o.

CROSS-EXAMINED BY P.P.:

I think we were still at the Zwane Street side with Tsele, accused No. 3. Did he address the crowd and say to them "You must be very happy today, perhaps we are going to get what we're waiting for"? ---That I did not hear.

Apart from what you've mentioned that Tsele told certain people to climb off from where they were, did he

make/..

make an announcement that this person was going to address them at 2 o'clock? ---The words that this official should come at 2 o'clock, he used these words before he told the people to climb off the roof of the clinic. But when he said that, he was not standing at the same spot where he was standing when he told the people to climb off the roof. I do not remember where.

You don't know how he came to make that announcement?---No.

P.P. NO FURTHER QUESTIONS.

MR. CUNTERHALTER NO RE-EXAMINATION.

BY COURT:

There's just one little matter that I'd like to try to clear up with you. Colonel Spengler, if I recollect correctly what you've said, handed you over to Sergeant Muller, is that right?---Yes.

Did you see what happened to Colonel Spengler when he'd handed you over to Sergeant Muller?--- Immediately he handed me over to Sergeant Muller, he then turned back to where he came from. I do not know what thereafter happened to him.

He turned?---Back to where he came from.

He turned back towards...?---In the direction of the gate.

And you told us how you were handed over until you were ultimately just inside the big door of the Police Station building?---Yes.

How long had you been there when you heard the firing? --- By estimate, I was approximately there for between 3 and 5 minutes, in that vicinity.

Yes, you were with accused No. 4?---Yes.

At the time when you heard the firing?---Yes.

Did/..

Did you tell the...
 then told me that...
 hear what Colonel Spengler...
 So there must have...
 people were told to keep...
 were conversing, and...
 hear if perhaps this...
 was saying...
 Now, earlier on...
 Street side, that...
 Yes, I did walk...
 Western side of the...
 I see you see...
 police officer? ---...
 I saw him when he...
 and telling people...
BY COURT:
 They should get...
 They were sitting...
P.P.:
 Well you mind...
 speaking to a police...
 did not see him...
COURT ADDRESS:
COURT RESUMES:
PETER MOLIFE R.D.:
CROSS-EXAMINED BY P.P.:
 I think we were...
 Tabled No. 3...
 then "you must be very...
 get what we're waiting...
 apart from what...
 certain people to climb

Did you try to go to work that morning? Leave your house at all to go to work? --- On other days it is usual that I start work at 12 midday. The position is that that morning I had still to remain at home until my times..

You mean you went to work at 12 o'clock?---Yes.

Well, did you go, or try to get to work at midday?

---I did not at all try to go to work.

Why not? ---Because my grandfather had already been turned back. I did not want to be turned back...

Purely on account of what you'd heard from your grandfather?---Yes, because it was true.

Yes, you may stand down.

BY COURT TO MR. UNTERHALTER.

Have you any other evidence, Mr. Unterhalter?

MR. UNTERHALTER:

That is all the evidence I have today. It is possible that I may have small others.

BY COURT:

Yes, you don't close your case yet?

MR. UNTERHALTER:

No.

BY COURT TO P.P.:

What is the position now, Mr. Prosecutor?

P.P.:

had subpoenas
Your Worship, I have despatched to the Prison at Witbank. They were despatched on the 3rd of May under cover of a registered letter to the S.A. Police.

BY COURT:

Is that Wash Sebukwe and Leballe are?

P.P.:

Yes. I also telephoned Major Wessel, he is the officer commanding the gaol, to make sure that he knew that these/..

these people were to give evidence.

BY COURT:

For what day?

P.P.:

For to-morrow, the 10th of May. Another point that did arise this morning was that accused No. 39 approached me. He had some other witnesses - he wasn't too sure of the procedure, so I told him that if these witnesses don't want to come to Court on his own verbal request, then he must tell me and we will subpoena them.

BY COURT TO ACCUSED No. 39:

Accused No. 39, have you got other witnesses outside Sebukwe and Leballe? ---Yes, I have two witnesses.

Who are these two, where are they? --- The first witness is the employer at African Cables. The second witness..

Your employer?---Yes.

Who is the individual that you wish to call? --- Yubee Mbhusa is the one employed at African Cables.

Oh, an employee?---He is an employee.

Yes? ---The second witness whom I want to call was previously in the employ of the African Cables but then he has left service then. He is - his residential place is at Evaten. Now I want to go and trace him, in case I get some information about his whereabouts at Evaten.

But why haven't you done anything about it? Here has the case been on since September last year, there have been various long adjournments, and now you want the opportunity to go and look for somebody?---I had already told this witness that he should come and give evidence. He is a painter, he does not remain in one place, he moves all over.

Did you ask him to come to Court? ---I told him that he should come to Court the day the evidence is finished, but then he did not.

Have/...

Have you told him to come to Court on any particular day? — I only told him that either today, Tuesday, or Wednesday, tomorrow, he should come.

And what did he say?—He promised to come.

To come, either today or tomorrow. What do you want me to do about it? He may be here tomorrow? —I will consult with him this evening and persuade him that he should come tomorrow.

What is his name? —I only knew the first name, de Villiers. I'm not certain of his surname.

And what about Gilbert Kubaza, have you spoken to him?—I have already finished with Gilbert Kubaza. He has agreed to come to Court tomorrow.

In other words, you're expecting your two witnesses to be here tomorrow? It seems as if you've given us a heavy roll for tomorrow, because I'm told that Sebukwe must be here and Leballe must be here, and you've been anticipating things, so I think it will be a little too much for me to get through all the evidence tomorrow. Why didn't you get your witnesses here today? Here I'm sitting now, not halfway through the day yet, and we have no witnesses to go on with?—Your Worship, I did not know what to do. Perhaps Kubaza is at home now, perhaps he is going on night shift. It is possible that perhaps he may be at home.

Why didn't you find out this morning? — If the Court perhaps grants me...

No, you had to report at the Police Station at 8 o'clock this morning and the Court was due to start at 9.30, that is an hour and a half?—I was under the impression that perhaps Sebukwe and Leballe would come today and give evidence and that they..

BY COURT TO P.P.:

You didn't notify the accused what date you were going to subpoena them?

P.P./..

P.P.:

I did tell them that I intended to subpoena them for the 9th, but once I was on my way back in the car, I thought it better..

BY COURT: TO ACCUSED No. 39:

All right, you will have an opportunity to report tomorrow morning whether your witnesses are here or not.

BY COURT:

Now I'm speaking to the five undefended accused. Perhaps they will want to consult with each other. I would like to know now whether they are going to wait until they heard their witnesses before they themselves decide whether to give evidence or not. I can't tell them what they must do. If they ^{can} tell me they would rather wait until they heard their witnesses first, if they wish to. On the other hand, if they, or any one of them, wants to give evidence himself, they can get on with it now. Now I stress that I can't tell them how to get about things, but I would like to get on with the hearing of this case and not waste the rest of today. I'm now going to adjourn. If the five of them want to have a five minute consultation with each other, they can do so. When I come back I would like to know, that is I would like to know whether any of them, if any, wants to give evidence, well I'm prepared to get on with hearing that evidence now. Is it clear?—Yes.

COURT ADJOURNS.

COURT RESUMES:

BY COURT: To No. 1 Accused:

No. 1, are there any other witnesses you want to call, except these mentioned already? —I've no other witnesses to call.

Are you yourself going to give evidence or not? — I'm still waiting for the two witnesses to give evidence before/...

before I decide.

BY COURT TO ACCUSED No. 4:

Accused No. 4, are there any other witnesses you want to call. We've now got four mentioned that you undefended people want to call. Any others? ---I have no other witnesses to call.

What is the position in regard to yourself, are you going to give evidence or not? ---I'll decide what to do after the defence witnesses I'm calling have given evidence.

BY COURT TO ACCUSED No. 8:

Accused No. 8, any witnesses that you want to call except these already mentioned?---I have no other witnesses to call.

And what is your own position?--- I'll wait for the witnesses to give evidence, then I'll decide.

BY COURT TO ACCUSED No. 38:

Accused No. 38?---I've no other witnesses to call, with the exception of these which had been already called.

Yes, now what is your position? --- I'll wait until the defence witnesses have given evidence, then thereafter I'll decide.

I can only express the hope that after the defence witnesses have given evidence I'm not going to get another application to give you another opportunity to consider it. I hope your mind will be made up by that time.

BY COURT TO ACCUSED No. 39:

Accused No. 39, what is your own position? ---I'll decide after the defence witnesses have given evidence. I want to hear what they say first.

COURT ADJOURNS TO 10.5.1961.

MICROFILE JOHANNESBURG.

END

MICROFILE JOHANNESBURG.

END