EDB.

IN THE COURT OF THE MAGISTRATE FOR THE REGIONAL DIVISION OF THE SOUTH TRANSVAAL HELD AT VEREENIGING.

CASE NO. R.58/1960.

In the case of :

REGINA

versus

JOHANNES MONYAKE and twenty-two others.

Judgment on exception to charges and motion to quash.

INTRODUCTORY :

In its notice dated 12th August, 1960, and addressed to the Public Prosecutor of this Court the defence have notified him of its intention to except to all the charges and, in the alternative, to apply to the Court to quash them, on certain given grounds. Argument by counsel for the defence and by the Public Prosecutor have proceeded on the basis that the defence contention is that the charges are vague and embarrassing and calculated to prejudice the accused in their defence. The defence contentions will be dealt with in further detail later.

The charges against the accused consist of a main charge of public violence, and four alternative charges, i.e. (i) contravening Section 2(a) of Act No. 8 of 1953, or (ii) contravening Section 2(b) of the same Act, or (iii) contravening Section 18(2)(b) Act No. 17 of 1956, or (iv) contravening section 15(1)(a) or (g) of Act

No. 67 of 1952. In each alternative charge the sections quoted are to be read with certain other statutory provisions.

The defence, by notice dated 17th June, 1960, asked the Prosecutor for certain further particulars. He had not replied to this request by the 21st July, 1960, and on that date undertook to do so by 10th August, 1960, and in fact did so on that day. He refused to supply any particulars in respect of the main count. The defence has not followed the usual course of asking the Court for an order to compel him to furnish particulars, but served the notice of exception and application to quash dated 12th August, 1960.

THE MAIN CHARGE :

In regard to the main charge the defence contention is that it should be quashed on one or more of the following grounds :-

(i) There is misjoinder of the accused and that is calculated to prejudice and embarrass them in their defence.

(ii) The charge does not comply with section 315 Act No. 56 of 1955, and is calculated to prejudice and embarrass the accused in their defence, and more especially that the charge does not contain any of certain further particulars asked for.

(iii) Certain paragraphs of the particulars contained in the charge do not disclose the offence of public violence.

(iv)/ ....

(iv) The repeated use of the phrase "and/or" in the charge is burdensome and oppressive and calculated to prejudice or embarrass the accused in the conduct of their defence.

(v) There are more counts than one in the main charge and these are not numbered consecutively, and it is, therefore defective on the face of it in that it does not comply with the provisions of Section 312(2) of Act No. 56 of 1955, and is calculated to prejudice or embarrass the accused in their defence.

In their addresses in support of the application counsel for the defence did not specifically stress or press the ground set out in paragraph (iii) supra, but confined themselves to the various grounds alleging prejudice and embarrassment to the accused in the conduct of their defence.

It will be convenient to set out the main charge in the way in which the Court reads and understands it:

It is that the accused are guilty of the crime of Public Violence in that

during or about the period 18th to 21st March 1960

at or near Sharpeville native township

The accused did, with divers other persons unknown;

"riotously assemble and gather together a crowd
"of persons with intent by violent and forcible
"means to disturb and endanger the public peace
" and security and by such means to invade or

enter/ ....

"interfere with the rights of people there
"being or carrying on business and to make
"riots and affrays and by the said means to
"assail or set at defiance the authority of the
"police and others in public authority there
"established to maintain law and order and
"did make riots and affrays ----"

The charge then proceeds to set out four general ways in which the accused did these things, i.e.

(i) By marching in and with assembled crowds through the streets and public places of Sharpeville native township; and

(ii) by threatening and attempting to damage, burn and destroy the premises and property of divers persons there being or carrying on business; and

(iii) by actually damaging, burning and destroying certain premises and property there situate; and

(iv) by assaulting certain persons and placing in fear divers persons there being.

The charge then proceeds to particularise these four general allegations in seventeen numbered paragraphs, giving particulars which the Court has no difficulty in allocating as follows to the general allegations:-

(i) The marching. Paragraph No. 1 : which alleges that the accused marched ---- in and through the streets and public places of Sharpeville, carrying and brandishing axes, knives, sticks, pieces of iron, stones, and blew whistles and shouted in demonstrations of force and strength.

(ii) The threats and attempts to damage property: Paragraph No. 2 :- which alleges that they threatened

or suggested the use of violence to or restraint upon the property and persons of at least thirteen named persons, and that they in fact restrained some or all of them in order to compel these persons not to go to their lawful employment or business.

(iii) Actual damage to property : Paragraphs 5, 6, 7, 10, 12, 13 and 15. These paragraphs allege (5) malicious damage to the house fittings and window panes of eight named persons by means of the use of sticks, stones, and similar instruments; (6) the wilful defacement, destruction, or mutilation of divers "reference books" by burning or tearing them; (7) the malicious breaking of bicycles and motor vehicles of two persons, two business firms, the Vereeniging Municipality, and the Union Government, by burning them about and striking them with sticks, stones, fists, feet, and other instruments; (10) the malicious cutting and severing of telephone cables and installations of the Union Government; (12) the malicious breaking of window panes and burglar proofing at beerhalls of the Vereeniging Municipality: (13) the malicious setting on fire, and setting fire to, a beerhall of the Vereeniging Municipality; (15) the breaking and damaging of the fence surrounding the police station at Sharpeville native township.

(iv) The assaults: Paragraphs 2, 3, 4, 8, 9, 11, 16 and 17. In these paragraphs the following details are set out : (2) assault with intent to do grievous bodily harm on four named persons, with full details as to the means used; (3) assault on 14 named persons, with full particulars; (4) assault with intent to do grievous bodily harm on five named persons with

full/ ....

or suggested the use of violence to or restraint upon the property and persons of at least thirteen named persons, and that they in fact restrained some or all of them in order to compel these persons not to go to their lawful employment or business.

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(iv) The assaults: Paragraphs 2, 3, 4, 8, 9, 11, 16 and 17. In these paragraphs the following details are set out : (2) assault with intent to do grievous bodily harm on four named persons, with full details as to the means used; (3) assault on 14 named persons, with full particulars; (4) assault with intent to do grievous bodily harm on five named persons with

full particulars; (8) assault by threatening violence to the persons or property of thirteen named persons giving particulars, and alleging an intent to induce these persons thereby from going to their lawful employment or business; (9) the use of opprobrious epithets to unknown persons who had undertaken to go to their employment; (11) obstructing, hindering or interfering with the police in the execution of their duties; (16) full details (in paragraph 16) of acts amounting to inciting and challenging the police to fight; (17) assault with intent to do grievous bodily harm on police and others, by discharging firearms and throwing missiles at seventeen named persons.

In the paragraphs in which particular persons are named there is invariably an allegation of assault upon, threats to or damage to the property of (as the case may be) "other persons whose names are to the Prosecutor unknown".

The following numbered paragraphs seem to particularise the general allegation of setting at defiance the authority of the police and others in public authority; Paragraph 1 : which alleges the marching in the streets, the carrying of weapons, and the blowing of whistles and shouting in demonstrations of force and strength; Paragraph 14 : which alleges a gathering at and around the police buildings, shouting, jeering and swearing at the police, taunts, curses, villification, insults and abuse at the police, and blockading and interfering with policemen and police vehicles; paragraph 16 : which gives details of gestures and challenges to the police and other officials to

shoot and fight, and the use of insulting and provocative language towards them; paragraph 17 : maliciously discharging firearms and throwing missiles at seventeen named policemen and other officials.

This, in short, is the charge as it is set out in the indictment. With these particulars before them the defence asked the Public Prosecutor for further and better particulars in a document containing (in so far as the main charge is concerned) some 18 paragraphs. The further particulars required can be summarised as follows:-

In general : As to the 17 numbered paragraphs in the charge attention is drawn to the use of the phrase "and/or", and then the following particulars are requested : (i) did all the accused commit every act referred to in all the paragraphs, or did all commit the acts referred to in one or other of them? (ii) is it intended to allege that some accused committed the acts referred to in one or more but not all the paragraphs; and other accused the acts referred to in others of the paragraphs? (iii) if the answers to (i) and (ii) are in the negative, what precisely is the expression "and/or" intended to convey? (iv) If the answer to (i) is in the affirmative full particulars are required indicating precisely when, where and by whom each of the said acts is alleged in the alternative to have been committed. If the answer to paragraph (ii) is in the affirmative full particulars required indicating precisely when, where and by whom each of the said acts is alleged to have been committed.

Then there follow a series of questions for

certain/ ....

certain further particulars in respect of each of the seventeen numbered paragraphs in the charge. The Crown is mostly asked to give exact details as to the exact date and place of each act; as to the weapons or instruments used or carried; as to which accused assaulted, threatened, or damaged the property of which named complainant or of each of the other persons separately; as to the nature of the wounds or injuries sustained by each complainant or other person; as to the nature of the property damaged and the nature of the damage; as to where exactly damaged house fittings and broken panes were; how many reference books were defaced, destroyed, or mutilated, and in what manner was this done; as to the actual words used, which words constituted taunting, jeering, swearing, villification and so forth, and which constituted threats; the duties and functions of the police; was there a single act of setting fire or more than one ?; and so on - asking for the most exact details of all the actions set out in the seventeen numbered paragraphs.

To the whole of this request the answer has been that the Crown declines to furnish any of the particulars asked for. During the course of argument Mr. Welsh invited the Prosecutor to reply to paragraph 1)(a)(i) and (ii) of the defence notice, but the Prosecutor declined to do so. At no stage did the Crown contend that it was unable to furnish the particulars asked for, or any of them.

In their arguments counsel mainly criticised the charge on the following grounds:-

The main complaint of the defence is the

refusal/ ....

refusal to give the further particulars asked for in paragraphs 1) and 2) of their notice of exception i.e. the particulars mentioned supra in the paragraph beginning "In general ---- In other words, the complaint is that the period of four days mentioned in the charge is too vague, and the allegation that the offence was committed at or near Sharpeville native township is too vague; the time and place in respect of each act set out in the seventeen numbered paragraphs should be given; the charge does not allege a conspiracy or that there was common purpose between the accused; it does not allege a single riotous assembly, but a number of such assemblies at unstated places and times over a period of four days; the continued use of the phrase "and/or" is confusing, uncertain and not definite; there is misjoinder unless the Crown alleges that each accused took part in all acts, and the charge, prima facie, alleges a large number of criminal acts committed separately; it alleges a large number of acts by the accused " and divers others," but does not say which accused committed which act; it does not set out a well defined time and place in regard to the acts committed. Counsel also dealt with the seventeen numbered paragraphs, and the particulars asked for in respect of each of them, and contended that none were frivolous or asked for merely to embarrass the Crown: and Mr. Welsh then gave full details of his complaints.

Counsel concluded by saying that, in general, the charges contained a number of "blanket allegations", hardly any particulars as to place; no particulars

as/ ....

as to time; and no allegation of each individual accused person's acts.

In his reply the Prosecutor stressed that the charge was sufficiently detailed, and that the accused were not entitled to the wealth of particulars asked for by them. Some of the questions were unnecessary and trifling. The test is prejudice. He contended, in general, that each accused could defend himself, and ought to know what his actions over the four named days were, and whether or not he had any part in any of the numerous acts set out in the charge.

Now Section 315 of Act No. 56 of 1955 deals with the essentials of a charge in a criminal case as follows :-

"Subject (to certain other provisions of the Act) each count of a charge shall set forth the offence ---- in such manner and with such particulars as to time and place at which the offence is alleged to have been committed and the person, if any, against whom and the property, if any, in respect of which the offence is alleged to have been committed, as may reasonably be sufficient to inform the accused of the nature of the charge".

The question of further particulars is dealt with in section 179 of Act No. 56 of 1955, which reads as follows :-

"(1) The Court may either before or at the "trial, in any case if it thinks fit, direct "particulars to be delivered to the accused "of any matter alleged in the charge, and may, "if necessary, adjourn the trial for the

purpose"/ ....

"purpose of the delivery of such particulars."

The wording of Section 315 provides only for particulars as to time, place, person against whom, and property in respect of which the offence has been committed, and they must be of such a nature as may reasonably be sufficient to inform the accused of the nature of the charge. The wording of Section 179 affords no guidance whatsoever to the Court as to the circumstances under which it should order further particulars to be delivered. That being the case the Court must turn its attention to judicial interpretation of these sections. There has been a whole series of decided cases, but it is not considered necessary to refer to them all.

In Rex vs. Schapiro and Saltman 1904 T.S. 355 Innes C.J. remaked as follows: "Now an indictment is a "plea of the Crown. It is a document setting "forth the crime with which the Crown charges "the accused person and giving particulars "of the charge. It seems to me there "are two essentials to an indictment; it "should contain allegations which, if proved, "would constitute the crime with which the "accused is charged; and the particulars of the "offence should be stated in such detail as to "enable him to know the case that he has to "meet." In this case the accused were charged with statutory bribery (Section 3 Law 10 of 1894), and the indictment did not specifically allege that the official was a liquor inspector, neither did it set out the details of his duty and how he was being bribed

to/ ....

to act contrary to his duty - but the learned Chief Justice held, notwithstanding these defects, that the particulars were reasonably sufficient to allow the accused to know the nature of the crime with which he was charged.

Again, in the Doornhoek case (Rex vs. Alexander and others, 1936 A.D. 445), Wessels, C.J. says (at page 457), "What is the object of an indictment? Its real purpose is to inform the accused in clear and unmistakable language what the charge is or what the charges are which he has to meet. It must not be framed in such a way that an accused person has to guess or puzzle out by piecing sections of the indictment or portions of Sections together, what the real charge is which the Crown intends to lay against him ----".

In Regina versus Adams and others 1959 (1) S.A.L.R. 646, the Court said at p.656 "it seems "to us that the accused will not be in a position "to prepare their case unless the Crown "particularises the speeches and documents upon "which it relies. It is well known principle "in our law that an accused person is entitled "to such particulars as he properly requires "for the purpose of preparing his case before "he is called upon to plead and enter upon his "defence, and he is entitled to such parti- "culars even if it entails a disclosure of "Crown evidence". and at p.668 "The question "whether the accused has been sufficiently advised of the "extent" of his participation in a criminal course of "conduct, seems to us to be one of degree, depending

naturally/ ....

"naturally on the circumstances of each case, but which "ultimately reduces itself into one of fairness to the "accused."

This case is the well known treason case which is even now still being heard before a special Court. The hearing has already stretched over many months, and the Crown's allegations cover many speeches delivered over a very long period by a very large number of people. It is a case of very much greater magnitude than the case now sought to be proved, so far as the Court can judge at this stage, by the main charge in the indictment before the Court.

In an earlier case, that of Rex versus Lavenstein, 1919 T.P.D. 348, the learned judge, on an appeal, dealt with both the question of the objects of an indictment, and of further particulars, as follows:

(at p. 351) : "It is a curious thing that in "connection with particulars they are re- "stricted, so far as this Section (Sec.127 "Act 31 of 1917, which is substantially similar "in terms to Section 315 of Act No. 56 of "1955) is concerned, to particulars as to the "alleged time and place of committing the "offence and the person, if any, against whom, "or the property in respect of which the "offence is alleged to have been committed. "These are not exhaustive particulars in connection "with all offences, but I think the words of "this Section really mean ---- the offence "must be set forth in such manner as may be "reasonably sufficient to inform the accused

of/ ....

"of the nature of the charge ____."
" _____ The indictment therefore in itself
" is good, but, of course, the accused may be
"prejudiced by an indictment even if it is
"good, unless sufficient particulars are set
"forth to enable him to frame his defence."
(At p.354) "One can see that in many cases such
"particulars - (that is particulars beyond
"those specifically called for in the section
"quoted") - ought in justice to the accused,
"to be given."

In Ah Kee and another vs. Additional Magistrate and Attorney General (T.P.D. 7.37 1957 unreported) Mr. Justice Boshoff, in considering whether further and better particulars should have been furnished, said:-

"The object of asking for further particulars
"is to enable an accused to know the case which
"it is proposed to make against him and thus
"to enable him to prepare his defence: "R.
"vs. Mokgoetsi: 1943 A.D. 622 at p.627. The
"amount of latitude to be allowed to the Crown
"depends upon the nature of the crime and the
"circumstances of the particular case, bearing
"in mind the importance of securing the accused
"against embarrassment in his defence.
"R. vs. Smit 1946 A.D. 862 at p. 872".

And in Regina versus Moilwanyana and others 1957 (4) S.A.L.R. 608 (at p.617), Ramsbottom, J. gave utterance to the following words on the question of further particulars : "An accused person is
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be/ ....

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reasonably/ ....

"reasonably requires to inform him what he is
"said to have done, and an application for further
"particulars to an indictment or charge should be
"limited in that way. It was not intended that every
"question which ingenuity might suggest should
"be put to the Crown - not with the purpose of
"gaining information to which the accused is
"entitled but in an attempt, I cannot help thinking
"to embarrass the Crown. I think that if a request
"of that kind is submitted to the representatives of
"the Crown it may well be that they are entitled to
"ignor it ....."

There are, I think, further authorities which need not be referred to for the views of the Superior Courts on Sections 315 and 179 of Act No. 56 of 1955. The general conclusion of the courts seems to be that an indictment or charge must set out the offence with such particularity that the accused can know what the charge against him is so that he can defend himself effectively.

But it would not be out of place to examine the authorities as affecting an indictment on a charge of public violence. Such indictments have been the subject of judicial comment in, i.a., the following cases:-

Rex versus D'Arcy and others (1934 W.L.D. 8).
The charge was incitement to commit public violence, and the trial court ordered that certain general particulars only need be given. Bok J. on appeal remarked: "They were entitled to be given particulars in regard to each "of them individually of the manner in which they were "alleged to have incited, instigated, commanded or "procured, either particulars of the words alleged to "have been uttered by them or of the acts alleged to have "been committed by them, or of both as the case might

"be ..... The accused were still (i.e.
"after the amendment) in the dark as to what they
"were alleged to have said or done which was to be
"regarded as an incitement of others to public
"violence."

This case dealt with a charge of incitement, and should be read subject to the views of Ramsbottom, J., in Regina versus Moilwanyane 1957(4) S.A.L.R. 608.

In Rex versus Salie and others 1938 T.P.D. 136 the charge in the case was not discussed, but rather the circumstances in which conduct should be charged as public violence. At p. 140 Schreiner, J., says:-

"Ordinarily where acts of violence have been
"committed the Crown has to bring home to the
"individual the commission of a particular act,
"and the court then investigates the circumstances
"in which that act is committed. Defences like
"self defence or provocation may be of great importance
"in deciding whether a particular accused person is
"guilty at all or what the degree of his guilt is.
"A general crime of the nature of public violence
"makes it very difficult to ascertain the relative
"parts played by the different persons and to fix
"the degrees of guilt, if any, attaching to them.
"No doubt in certain cases it is proper to deal with
"the persons concerned in the mass, but this should
"not be lightly permitted to the Crown ....."
"As I say, there are circumstances in which it may
"be proper to deal with the persons who have taken
"part in the fight in the mass, but that should be
"confined to cases where the scale of the fight is
"a considerable one and where the persons taking
"part cannot be expected to be dealt with individually
" ....."

In Rex versus Marthinus and others 1941 C.P.D. 319, a charge in language similar to the main charge in this case, and not giving detailed particulars to anything like the same extent, was held to be in order and sufficiently particularised. As in the present case, the charge in that case did not specifically allege a common purpose between the various accused persons.

Rex versus WILKENS, 1941 T.P.D. 276. At page 389, Murray J., says: "It is unnecessary to allege, or to "prove that there was antecedent conspiracy "or agreement to commit such acts as constitute "public violence .... The circumstances of any "particular case may show that what occurred was "concerted action disclosing an intention at that "time to combine and not a number of isolated "unconnected acts of affrays. And if this be so "and scenes of riot and assault followed as a "natural consequence, it was unnecessary for the "Crown to prove specifically what assault was "committed by each of such persons. In order to "fix criminal responsibility upon any of the "present appellants .... it was not necessary for "the Crown to establish that each person committed "any particular act of violence ... it was sufficient "to show that the accused persons were associated "with the others in the execution of some common "purpose .....

Regina versus Moilwanyane, 1957(4) S.A.L.R. 608. In this case Ramsbottom, J., after a full and careful consideration of earlier decisions, concluded that a charge of incitement to commit public violence cannot be said to fail to disclose the offence merely

because the ipssima verba used are not stated. The Crown had failed, on request, to state the words used, but the judge held that the contents of the charge were such that the exact words need not be given, as the charge stated that they used words the effect of which was that the listeners should commit public violence.

It is advisable at this stage to examine the position in regard to one or two of the phrases used in the indictment.

Some criticism was directed at the allegation that the offence is charged as having happened "at or near" Sharpeville Native Township; there was no express criticism of the phrase that the offence was committed "during or about" the period 18.3.60 to 21.3.60. These phrases - "at or near" and "during (or upon) or about" have been in use for many years, and have apparently been taken over from old indictments, possibly in use in the courts in England long ago. They are repeated in specimen indictments in such books as the well-known "Gardiner and Landsdown" as from its very first edition. They are used somewhat loosely, and appear even in charge sheet forms for use in Magistrates' Courts as printed officially for the department of justice. It is advisable, in the Court's view, for prosecutors to avoid using them in all cases in which they can with certainty state the place and date of commission of the offence. An amendment can, after all, always be asked for if necessary under the provisions of Section 180 of Act No. 56 of 1955. At page 325, Volume I, 6th Edition of Gardiner and Lansdown, the authors say that "where there is any uncertainty as to the "particular locality, it is usual to allege that the "act or omission took place at or near the place

stated/....

"stated". In regard to the time or date of the offence, there are various provisions of Act 56 of 1955, to assist the Crown in cases of uncertainty. Section 176 of the Act provides for proof of the offence at any time three months before or after the date or period set out in the charge, or even outstide this limit, if time is not of the essence of the offence, and if there is no prejudice to the accused.

In Mahlala versus Rex (para. 31 of Justice Summary of decided cases for 1940) a charge alleged the commission of an offence "at or near" an urban area. The offence could only be committed in an urban area. The learned judge on appeal read the allegation "at or near" as being in the alternative and ruled that the words "or near" were mere surplusage and should have been struck out. This Natal decision was followed in the Orange Free State in Moletsane vs Rex (para. 17 Justice Summary for 1941).

The effect of the use of these two phrases in the present indictment will be considered later.

But the phrase "and/or" figures in many places in the indictment, notably between each of the seventeen numbered paragraphs, and the defence has excepted to its use in rather strong terms. In paragraph (4) of its notice to the Crown, the defence says:

"The repeated use of the expression "and/or"
"is burdensome and oppressive ..."

Now, this phrase is undoubtedly inelegant. It has crept into legal documents in recent years, and is

not/ ....

not in conformity with the older and more dignified (albeit sometimes somewhat flowery) phraseology of older legal documents. It was the subject of complaint by the defence in the case of Regina versus Adams and others (supra). At pages 657/8 and on page 574 the special court commented as follows:

"The defence also complained about the extravagant
"use of the conjunction "and/or". It was
"suggested that if all the "and/or's" are
"added together, the number of combinations
"possible under paragraphs 1, 2 and 4 of
"part B of the main charge is 498,015. While
"not wishing to condone this type of
"conjunction, we think it is necessary to
"state that the total number of combinations
"looks more menacing than it really is ....
"The use of the particle "and/or" in
"part C and part D of the main charge, however,
"increased the need for the further particulars
"ordered ....."

"We shall say nothing at this stage
"of what was called the "bastard conjunction"
"in Bonitto versus Fuerst Bros., 1944 A.C.
"at page 82, and to which van den Heever J.,
"referred in somewhat scathing terms in Ex
"parte McDuling 1944 O.P.D. at page 189".

The/ ....

The position then is that the judges have condemned the use of this phrase in various ways. They are discouraging its use, but they have not ruled that it is meaningless or vague. It must, in the circumstances, be given its ordinary meaning, that is, that in between a number of paragraphs or words, it means, on the one hand "and", or also, on the other hand "or".

The Court now proposes to examine the validity of the main charge in the light of these authorities.

Nowhere in its notice of exception and motion to quash does the Defence contend that the charge is excipiable as not disclosing an offence cognizable by this Court (Section 169(1) of Act No. 56 of 1955). The only contention of this kind is that the numbered paragraphs 6, 9, 10, 11 and 16 does not disclose the offence of public violence. If they do not they should be struck out of the indictment. It is not necessary to examine, in detail, the various elements constituting the crime of public violence. The crime has been the subject of judicial interpretation in a large number of decided cases. Its definition as set out in Gardiner and Lansdown, Vol. 11, 6th Edition, at page 1012:-

"Public violence is committed by all such acts as
"openly and publicly effect, or are intended to cause,
" a violent and forcible disturbance of the public
"peace and security or a forcible invasion of the
"rights of other people". The crime, as so defined, covers a large variety of other crimes and illegal acts. One of its prominent elements usually is the setting at the defiance of the authority of the police and

other/ ....

other state officials.

Paragraph 6 of the indictment alleges defacement, destruction or mutilation of reference books. Such action is a statutory offence, but it is also aimed at setting the law at defiance, and undermining the authority of the police and other officials appointed to administer the law in regard to reference books, and as such such conduct can be said to form part of the crime of public violence.

Paragraph 9: The use of opprobious epithets, jeers, and jibes, to people who wished to go to their places of employment, can, depending on the circumstances, amount to an incitement to them not to go to work and on invasion of their rights. It can be part of conduct constituting public violence.

Paragraph 10: The paragraph avers, in short, malicious damage to telephone cables and installations. Such action amounts, undoubtedly to setting at defiance the rights not only of the Union Government, the owners of the cables and installations, but also amounts to a possible invasion of the rights of all users thereof. To say that such conduct cannot constitute public violence, especially in conjunction with other illegal acts, is ridiculous.

Paragraph 11: Alleges obstruction, hinderance and interference with members of the Police in the execution of their duties, and the adoption of a hostile attitude towards the police and a refusal to disperse when ordered to do so. The Court has no difficulty in ruling that such conduct is calculated to set at defiance the authority of the Police and the State, and

it/ ....

it clearly falls within the ambits of the crime of public violence.

Paragraph 16: The paragraph alleges, inter alia, a challenge to the police to fight, to shoot people, and the use of most vile and provocative language towards the police. Such conduct, once again, is obviously calculated to defy the authority of the police, and to incite the police to commit assaults and to kill. If such conduct does not constitute public violence, what does? The defence contention is ridiculous.

There is, therefore, no merit whatever in the contention that these paragraphs do not disclose the crime of public violence, and consequently the "notice of exception and motion to quash" must fail, in so far as it can be said to be an exception to the charge as not disclosing an offence cognisable by the court in terms of section 169(1) aforementioned.

The next matter to consider is whether the court should uphold the "notice of exception and motion to quash" in so far as it may be an application to quash the charge on the ground that it is calculated to embarrass the accused in their defence (Section 167(1) of Act No. 56 of 1955). This brings the court to the matter which was argued most vehemently by the defence, i.e. that the charge is so lacking in particularity, or so defective in particularity, that it ought to be quashed.

The charge has already been analysed in the earlier part of this judgment. It sets out four main ways of committing the crime of violence, i.e. (i) Marching in and through the streets; (ii) the

threats and attempted damage to property of others; (iii) the actual damaging, burning and destruction of property; and (iv) Assaults on numerous police officials and other persons. There then follows full particulars of these four ways in the seventeen numbered paragraphs, which have already been summarised. The indictment consists of some five and a half foolscap pages of double-spaced typing. In general the conclusion of the Court is that the offence is set out very fully, and is well particularised.

The main defence argument was that it does not comply with the terms of Section 315 of Act No. 56 of 1955.

The time of the offence is said to be "during or about the period 18.3.60 to 21.3.60". That is, the offence was committed during or about a period of four consecutive days. In his argument Mr. Welsh seemed to accept that the accused were charged with acts constituting public violence which occurred only on the four named dates, i.e. the 18th, the 19th, the 20th, and the 21st days of March, 1960. The Court feels, in all the circumstances, that this is a fair reading of that part of the charge which relates to the time of the commission of the offence. The Crown could, with advantage, have omitted the words "or about" before the words "the period 18.3.60 to 21.3.60" and that is the way in which it is proposed to read the charge. The Crown will, subject to any rights conferred by Section 180 of the Act, be limited to proving acts constituting the crime which occurred only on one or more of these named dates.

The place of commission of the offence is stated in the main paragraph of the indictment to be "at or near

Sharpeville Native Township". But in this respect the charge must be read as amplified by later statements in it. For instance, it is alleged that the accused "did then and there make riots and affrays by marching ..... through the streets and public places of Sharpeville Native Township"; by threatening to damage property of persons "there carrying on business", and by damaging property "there situate". In paragraphs 12 and 13 it is clearly stated that the beerhalls damaged or set on fire belong to the Vereeniging Municipality. In the numbered paragraphs the place of commission of the various acts is mentioned in various ways, e.g. in paragraph 1, the marching is stated to have been in and through the streets and public places of the above said township". Assaults are alleged to have been committed on named persons "there being". And so the Court can go on quoting from the charge as framed. But it is not necessary, for on a fair reading of the charge, it is clear to the Court that the place of the offence is Sharpeville Native Township, with some possibility that some of the acts may have happened not in it, but in its immediate vicinity. Presumably it would not be difficult for the various accused to ascertain where the damaged houses, beerhalls and police stations are.

The persons against whom various criminal acts are alleged to have been committed are detailed by name in the indictment. It is true that the indictment alleges that the accused "and other persons" committed these acts, and that the acts were committed on the named persons "and others whose names are to the Prosecutor

unknown/ ....

unknown". But this sort of charge is often put forward in public violence cases. The crime is invariably committed by a large number of persons, all of whom cannot always be brought to justice; and invariably their acts affect the persons and property of many people, all of whom do not always come forward to complain.

The property in respect of which the acts are alleged to have been committed is set forth with sufficient particularity. It is true that the charge does not describe the exact locality, but invariably the nature of the property and the names of the owners are set out.

In addition to these details the indictment contains many other particulars. The manner in which certain acts were committed is set out in some detail. The language used, and the nature of gestures, jeers and so forth are set out. On the whole the court is satisfied that, in so far as full particulars are concerned, these have been given to the defence in what appears to the court to be a sufficiently exhaustive recital.

An important complaint of the defence is that the Prosecutor has refused, in reply to their request, to state specifically that his contention is that all the accused committed all the acts set out in the whole of the charge over the full period. But need he do so if his charge says, with sufficient clarity, that this is the case he will try to prove against the accused. In the Court's view the charge does say so. In contrast with the alternative charges, the main charge does not contain an express allegation of conspiracy

or/ ....

or common purpose. It is true that public violence is usually committed by persons who, at some stage, have a common purpose. The charge, as it now stands, is against twenty-three named accused persons. It has, presumably after full consideration been withdrawn against some fifty-three others. The remaining twenty-three are charged "that the said accused are guilty of the crime of public violence -------- in that the said accused with divers other persons did wrongfully and unlawfully ...". There is no allegation that the accused, all or one or some of them, did commit the crime. This method of charging them must convey to the accused that the Crown will set out to prove that they all committed the crime as set out in the indictment.

What is the effect of the use of the phrase "and/or" between the numbered paragraphs. It is quite clear to the court that if the word "or" did not figure in the phrase, the Crown's contention is that all the accused did all the acts set out in the charge. That is one way of reading this inelegant phrase. It is obviously intended to be read that way. The stroke and the word "or" have merely been inserted ex abundante cautela, in case the Crown cannot prove the commission of all the acts, but only of some of them.

The Court's conclusion is that the accused are clearly told that the case against them is that all of them are involved in the commission of all the acts detailed in the indictment over the whole of the period of four days mentioned in the indictment.

The fact that they may be involved in tedious and long and detailed investigations in order to defend

themselves fully is immaterial, and cannot institute prejudice to them in their defence. The repeated use of the phrase "and/or" is stated to be burdensome and oppresive, but even if it is so, that cannot be said to prejudice or embarrass them in their defence. In any long and involved criminal case the defence must, of necessity, be involved in burdensome work.

In all these circumstances it is not considered necessary to go into the question as to whether the Crown should have replied to the many detailed particulars sought by the defence in paragraphs 2 to 18 of their request for further particulars.

Some questions were put unnecessarily, and apparently as the result of unwarranted doubts in the mind of the questioner or questioners. And many of the particulars asked for are of such a nature that one cannot help but conclude that they were asked for the purpose of embarrassing the Crown, and need not have been furnished in terms of the decision of MOILWAMYANA'S case quoted earlier.

Another complaint of the defence, as part of its motion to quash the charge, is that it does not comply with section 312 of Act No. 56 of 1955, in that it contains more than one count and such counts are not numbered consecutively. This point was not stressed in argument. The position is that the charge does mention and set out a large number of criminal acts, each of which alone does constitute a crime. But the charge clearly sets out one charge of public violence, consisting of a number of criminal acts. It would, of course, had been better if the Crown had set out these

acts/ ....

acts clearly in chronological order. But they do not constitute so many crimes of public violence. As the Court reads the indictment - and it has no difficulty in doing so - it alleges a series of acts, possibly continuous but certainly each following the other closely in time, and says that this series of acts constitutes one charge of public violence. But even if they constitute more than one charge, the accused cannot be prejudiced on that account. Consequently this complaint is held to be unfounded.

The defence notice of 12th August, 1960, also raises a plea of misjoinder in paragraph (1) thereof. It is contended that the joinder of the accused in the main charge is irregular, improper and contrary to law, and calculated to prejudice and embarrass the accused in their defence. Section 327 of Act 56 of 1955 provides for the joinder of different persons in the same charge.

The basis of misjoinder always is that the various accused persons are charged, each with having committed a different offence, in one joint charge against all. This course is improper (Changwing and 2 others vs Rex 1905 T.S. 767; Rex vs van Rooi and others 1913 C.P.D. 286; R. vs Carsens 1915 C.P.D. 365). The argument advanced was that the charge as framed contained no allegation of common purpose between the accused, and the various acts as set out in the charge are of so variable a character that the court can come to but one reasonable inference only, and that is that some of the accused committed some of the criminal acts, and others of the accused other such acts.

Now, notwithstanding the Court's conclusion

that/ ....

that the charge as framed clearly warns each accused that they all participated in all the acts set out in the charge, it is not inconceivable that the evidence may prove that some of them only became involved during the course of the happenings. In such a case the position seems to be that the Crown can charge them all jointly in one indictment on the basis of a course of conduct charge. Vide R. vs Heyne and others 1956(3) S.A.L.R. 604, and an application of this judgment in R. vs Adams and others 1959(1) S.A.L.R. 646 (at page 668).

But there is nothing, in the court's view of the charge as framed, which suggests that the Crown case against the accused is anything but a joint charge holding all of them responsible for all the various acts mentioned in the charge. It seems highly probable that the Crown's contention is that all the accused - particularly now that there are only 23 and no longer 76 - took part in a whole series of acts committed over four days, constituting one course of conduct which discloses the crime of public violence.

That being so, there is no evidence on the charge which suggests that some are charged with one offence and others with another offence. The plea of misjoinder cannot, therefore, be upheld.

For these reasons the Court has come to the conclusion that the motion to quash the main charge as being calculated to prejudice or embarrass the accused in their defence must be dismissed. It may be necessary for the Court to deal with the matter afresh should prejudice or embarrassment become more apparent in the course of the trial. Vide the concluding

portion/....

portion of the judgment in Green & others vs Asst. Magistrate 1954 (4) S.A.L.R. 580.

THE ALTERNATIVE CHARGES.

The charge as framed contains an introductory paragraph applicable to all four alternative charges.

But the question arises, firstly, whether these charges are truly alternative charges. The main charge alleges public violence at or near Sharpeville on four consecutive days, i.e. 18th to 21st March, 1960. The alternatives allege various statutory offences committed over a much more extended period, i.e. 1st September, 1959, to 24th March, 1960, and "within the regional division of South Transvaal", which is a much larger area than the Township of Sharpeville. In fact the area covers no less than some seventeen Magisterial districts, populated by several million people.

But the Crown has supplied further particulars, in respect of these alternative charges.

The Court mero motu raised the question as to whether these charges were true alternatives to the Main charge when argument took place. As neither party seemed to want to persue the point, it is best left alone at this stage, and the alternative charges will be examined to determine whether or not they are framed in such a manner as to be calculated to embarrass or prejudice the defence.

The general introductory paragraph to all the alternatives reads as follows:-

"In that, whereas at all places and times where it is "alleged that the accused did or omitted to do any

act/ ....

"act, it is alleged that all the accused at all
"such times were acting together and in concert and in
"furtherance of a common purpose and were further
"acting together and in concert and in furtherance
"of a common purpose with persons who were members
"of an organisation known as the Pan African
"Congress ....."

One of the questions asked was "who were the persons who were members of the organisation or organisations named?" And the reply was that they were eleven, all named, of the accused. In other words, the reply contradicts the charge itself, in that the reply conveys a common purpose between the accused only, and not between the accused and other persons.

So that, in general, the position already is that the Crown has laid charges covering a period of some seven months and has mentioned as the place of commission of the offence a very wide area, namely the whole of the regional division of South Transvaal. Here is true vagueness.

The first alternative: Alleges, i.e., that the accused did" .... in any manner whatsoever advise,
"encourage, incite, command, aid, or procure natives
"in general or some of them .... to commit the offence of
"contravening subsection (a)(i) or (a)(ii) and/or (g)
"of section 15(1) of act No. 67 of 1952 .... by way of
"protest against a law ..... to wit,
"(a) by addressing gatherings of natives and/or
(b) printing .... distributing pamphlets, leaflets, bills
".... to advise, incite, encourage, command or procure

the natives not to be in possession of reference books. ....."

This is a charge containing large numbers of alternatives; and one is not surprised that the defence asked for further particulars.

The first was as to the date and place at which each accused addressed a gathering? The reply was very vague, i.e. that the accused are criminally liable, and that no evidence of meetings held at Sharpeville would be led. The questions asked are not replied to specifically.

What words were used by the accused? The reply was to refer the defence to copies of a large number of extracts from speeches at Pan African Congress meetings at Johannesburg. The Crown did not specify which portions of these speeches advised, incited, etc. natives not to carry reference books, and a perusal of many of them does not contain evidence of any such advice, incitement, etc. At this point it is advisable to draw attention to what Mr. Justice Bok said in Rex versus D'Arcy and others 1934 G.W.L.D. 8 at p 9:
"It was not right to ask the accused; nor could they or "their attorney be expected to wade through a lot of "documents in order to be able to guess more or less what "the Crown might perhaps decide to prove against them. "What was asked was a definite statement as to the words "or conduct the Crown intended to rely upon". In that case the charge was incitement to commit public violence.

The Crown was asked to state which of the various offences was created by each address, i.e. was sub-section (a) (i) or (a)(ii) or (g) contravened?

It declined to reply.

.....There is no doubt in the Court's mind that the first alternative charge is, in view of these facts, so vague and confusing and uncertain, that the accused cannot ascertain the nature of the case against them, and cannot defend themselves. The motion to quash it, on the ground that it is calculated to embarrass or prejudice the accused in their defence, is upheld.

The second and third alternative charges: These are defective in the same respects as the first alternative charge. The same criticisms can be levelled at them, and there is similar vagueness and uncertainty in the indictment and particulars given. The motion to quash them is upheld for the same reasons.

The fourth alternative charge:-

Is that during the same lengthy period and within the same regional division, and by way of protest against or in support a campaign for the repeal or modification, of Act No. 67 of 1952, the accused did not be in possession of reference books issued to them, and/or did without authority deface, destroy or mutilate reference books.

The indictment seems to convey that each accused committed an offence of not being in possession of his reference book, or of destroying, defacing or mutilating it. The Crown in framing a joint charge, obviously relies on section 5 of Act No. 8 of 1953.

The defence have asked for particulars, i.a. the following with the replies set out in each case:-

When/ ....

When, where and by whom was the alleged campaign conducted? Reply: The full period is repeated as to "when?" the regional division of South Transvaal as to "where?"; and the introductory paragraph to the alternative charges as to "by whom?". In other words, no further particulars are given.

Is it alleged that all the accused were not in possession of reference books during the whole period 1st September, 1959 to 24th March, 1960? Answer No.

If not, on what date was each accused not in possession of a book? Answer: Against the name of each accused there are various answers. Some to the effect that the Crown is not certain as to when the book was demanded; in others the date of demand is given and the name of the police officer who demanded it - the dates being 21.3.60, 27.3.60, 27.4.60 and 1.4.60; in some cases it is stated that the name of the police officer who demanded production is not known; in one case the accused is a female, who need not possess a reference book; and in three cases it is said that production was never demanded at all.

On what date and at what place did each accused deface, destroy, mutilate, reference books? Reply: During or about the period 20.3.60 to 24.3.60, exact dates being unknown.

Further particulars are given in very general terms as to the number of books destroyed etc., and as to the manner of destruction etc.

In this charge then the Crown alleges, at first, a period of some seven months ending on 24th March, 1960. In further particulars the earliest

date/ ....

date specified is only on the 21st March, 1960, and other dates extend beyond the 24th March, 1960. No further particulars are given as to the place where the offence took place. A regional division cannot be said to be a place by any stretch of imagination. Other particulars furnished indicate that one accused (the female) could never have committed the offence of not possessing a reference; in three other cases the production was never damanded, and it is difficult to follow how the Crown is going to establish non-possession. The remaining particulars furnished are in some cases vague and confusing. In all these circumstances this charge is so vaguely drawn up that it can only confuse the accused. It is calculated to prejudice or embarrass them in their defence, and the motion to quash the charge is upheld.

COURT ORDER:

The exception to the main charge and the motion to quash it are both dismissed.

The motion to quash all four so-called alternative charges is upheld. No order is made as to any exception to them

(SGD.) P.M. O'BRIEN
REGIONAL MAGISTRATE.

VEREENIGING.
7th September, 1960.

Case No. R. 58/1960.

REGINA VERSUS JOHANNES MONYANE AND OTHERS.

JUDGMENT ON APPLICATION FOR THE DISCHARGE OF THE ACCUSED AT THE CLOSE OF THE CROWN CASE.

Application has been made that, in terms of Section 157(3) of Act No. 56 of 1955, the accused be discharged at the close of the Crown case. This Section reads as follows:-

> "157(3) If, at the close of the case for "the prosecution, the court considers that there "is no evidence that the accused committed the "offence charged in the charge, or any other offence "of which he might be convicted thereon, it may then, "in the case of a trial by jury, direct the jury to "return a verdict of not guilty and upon such "direction, the jury shall be deemed to have returned "such verdict and the judge shall thereupon enter "such a verdict and in any trial without a jury, the "court may itself return such a verdict."

It is to be noted that only if the court considers that there is "no evidence that the accused committed the offence", is it given a discretion to direct, or itself return, a verdict of not guilty. That being so two points arise for consideration in an interpretation of the section:-

(1) What is meant by "no evidence"? and

(2) What is the nature of the discretion which the court has?

Mr. Unterhalter, counsel for thedefence, and Mr. Laudin, the prosecuter, have quoted a number of decided cases on these two points, and it will be advantageous for the court to go into these in some detail, as they will guide the court

/on...

on the principles involved in a consideration of the present application. The court wishes to express its appreciation to these two gentlemen for their trouble.

Gascoyne versus Paul and Hunter, 1917, T.P.D. 170: Although this is a civil case de Villiers, J.P., mentioned section 170 of the old Transvaal Criminal Procedure Code ~~(similar in wording to the section now under consideration)~~ and quotes a sub-section. "If the court considers that there is evidence that the accused committed the offence charged ..... the court shall call on the accused to enter on his defence." The judge observes: "The amount of that evidence has been decided to be evidence on which a reasonable man might convict - not should convict, but might convict."

In R. versus ~~Thiethe~~ Thiele 1918 A.D. 373, Innes, C.J. (at page 379) says:- ....."If at the close of the case for the prosecution the judge had considered that there was no evidence that the accused committed the offence charged, then it would have been his duty to direct an acquittal (Section 221(3) Act 31/1917). But if there was some evidence, then the effect of that evidence was for the jury to consider, and the judge had no right to withdraw it from consideration."

In R. versus Shein 1925 A.D. 6, at page 9, Innes C.J., examines in some detail the English law, and says: (page 8): At one time the rule was that a verdict would not be disturbed on the ground that there was no evidence to go to the jury if the slightest evidence could be discovered. But in due course this rule was modified .... doctrine of scintilla of evidence disappeared..... its place was taken by the more satisfactory test of reasonableness ..... A verdict which reasonable men might find means one which reasonable men could properly find. ....

Lord de Villiers C.J. (in R. versus Smith 1912, A.D. p. 386) added that if the power to withdraw the case from the jury had existed, the presiding judge would have been under no duty to exercise it, for "it is impossible to say that the evidence was so weak that it was wholly unreasonable for the jury to convict on it." Innes, C.J., then refers with approval to the dictum of de Villiers, J.P., in Gascoyne versus Paul and Hunter. Although Shein's case deals more specifically with the duty of a jury inconsidering all the evidence, the views of Innes C.J., are of assistance in determining when evidence is such that a reasonable man might convict on it.

R. versus Sigoura 1938 E.D.L.D. 306 is a case in which the evidence for the Crown was extremely confusing, unsatisfactory and contradictory, and the presiding judge at the trial (Pittman J.) granted an application for the discharge of the accused at the conclusion of the case for the prosecution, and remarked: "I must consider whether to adopt the words of Innes, C.J., in R. versus Shein - it is "evidence on which reasonable men could could properly convict ..... If the evidence be, in important respects, inconsistent with itself, such inconsistency must needs make it easier for an application of the kind now made to be granted. To act on this view is not to in any degree usurp the jury's functions. ..... I must remind you (gentlemen of the jury) that as there is one cardinal rule of our procedure, that no person shall be convicted unless his guilt be proved beyond all reasonable doubt, so there is another cogent, perhaps equally salutory, namely that an accused shall not be put upon his trial unless there be a case for him to answer."

/R. ....

R. versus Machinini and others 1944 W.L.D. 91 is a case in which Mr. Justice Blackwell, in the exercise of his discretion, discharged an accused against whom there was no evidence at the close of the case for the prosecution, althouth it was clear from the preparatory examination record that a co-accused might give evidence against him. In his judgment the learned judge refers to a judgment by Ramsbottom, J., in R. versus Bosomgwana (unreported, heard on 13.10.1942, W.L.D.), in which he said: After careful deliberation, however, he had decided to exercise his discretion as follows: from the record of the preparatory examination which was read in evidence against No. 1 accused at the trial, he took cognisance of the fact that there was some one in court who if he should choose to give evidence in his own defence, would in all probability say that No. 4 accused was one of the party of assailants. Although such knowledge was not admissible as evidence against No. 4 he saw no reason why such should not weigh with him in refusing the application.

Blackwell, J., continues: "It may well be that there is some technical omission; that there is something lacking in the evidence of the witnesses for the prosecution which, in a proper case, could be made good by the evidence of the witnesses for the prosecution which, in a proper case, could be made good by the evidence called for the defence; but I have to face the fact here that there is no evidence; it is not a question of a deficiency; there is no evidence at all in this court against accused No. 1 and accused No. 2, and I have therefore to ask myself whether I am prepared to take the responsibility of following this decision of Mr. Justice Ramsbottom. ..... Either there was some evidence (before Ramsbotton J.) or there was not. If there was some evidence then under

/the...

the plain wording of section 221(3) there was no discretion in the learned judge and the case could not be withdrawn. The occasion for the exercise of that discretion could only arise if, in fact, there was no evidence. In the present case there is no evidence at all and I feel that I would be acting contrary to what I have always understood to be a well established practice in the criminal courts throughout the country if I were to say to accused Nos. 1 and 2: "In point of fact there is no evidence against you but I refuse to grant your discharge because there is a hope, based on the confession of No. 3 accused which I have admitted, that one of your co-accused might go into the witness box and implicate you, and in such event you would be placed in the dilemma either of replying to that evidence or, by keeping silent, giving credibility to it."

I now come to the case which has given rise to a considerable measure of disquiet - the case of R. versus Kritzinger and others 1952 (2) S.A. 401. In this case Roper J., examined the earlier authorities, including the apparently conflicting views of Ramsbottom and Blackwell, J.J., fully. After reciting section 221(3) Act No. 31 of 1917, he remarks: "It will be noticed that the presiding judge is given a discretion whether or not to withdraw the case from the jury.. ..... The question arises what is meant by "no evidence" in this sub-section. (After quoting earlier cases.) No evidence means "No evidence to go to a jury", that is, no evidence upon which a reasonable man might - not should - convict." The judge concluded that 'may' in the section did not mean 'must'. ..... It is clear, on authority, that even where, at the close of the case for the Crown, the evidence is too weak to justify a conviction it may be strengthened by evidence

/led...

led during the defence so as to justify a conviction

.....

".....No evidence does not mean no scintilla of evidence, but no evidence upon which a reasonable man might convict."

"It seems to me that the sub-section with which I am concerned gives the trial judge an absolute discretion whether or not to discharge ... . and attempts to fetter that discretion by demanding adherence to precedents are to be deprecated. It seems to be entirely wrong that that discretion should be limited by what some other judge may have done in some other case, the facts of which might be similar."

The learned judge concludes as follows: " ..... The rule is clear, namely, that if at the close of the case for the Crown the evidence against the accused, or against one or more of them, is not such that a reasonable man might convict upon it, the judge has a discretion whether or not to discharge. He is quite entitled to refuse the discharge if he considers that there is a possibility that the case for the Crown may be strengthened by evidence emerging during the course of the defence. The judge has before him the record of the preparatory examination and knows the compass of the case, and he is usually in a position to form an opinion whether a deficiency in the evidence for the Crown is likely, or not likely, to be supplemented by evidence emerging during the course of the defence. Where he considers that to continue the trial would merely put the accused to further expense, or inconvenience, or anxiety, and is not likely to result in a conviction, he will naturally cut the useless procedure short at once, and discharge the accused."

circumstances. With respect, my interpretation of these views of Roper, J. is not that the discretion of the judge is absolute in the sense that it can be exercised capriciously, for it is trite law that when any judicial officer exercises discretion he must do so as a judicial officer, i.e. judicially. The learned judge's conclusions as to the meaning of the words "no evidence" must be read in the light of the use by him of such words and phrases as "no scintilla of evidence", the case for the Crown being "strengthened" by the evidence for the defence or the "supplementing" of a "deficiency" in Crown evidence by that of the defence.

Section 197(1) [illegible] in terms substantially similar to those of the present

But a case which commends itself to the prosecutor (and also to the defence and the court) is that of R.v. Herholet and others, 1956(2) S.A.722. In that case Mr. Justice Beker (who referred to the judgment of Roper, J.) said:

"It has repeatedly been held in our courts that the test to be applied in an application of the present nature is not, whether there is evidence upon which a reasonable man should convict, but, whether the evidence presented by the prosecution is such that a reasonable man, acting carefully, might properly convict.

[illegible] whether, assuming an application for discharge had [illegible] I have no doubt that the discretion which is so vested in a court is to be exercised judicially; and that, as a general rule, but not apparently without exception, an accused should be discharged if at the close of the case for the prosecution the prosecution has failed to present evidence upon which he might be convicted. [illegible] in Fritzinger's case.

On circumstances /...

circumstances might be such that a failure of justice could possibly result if an accused person were to be discharged at the close of the case for the prosecution even though it has failed to present a necessary degree of evidence. But the attendant circumstances should at least be of such a nature as to afford the necessary grounds upon which that discretion could be judiciously exercised.

In R. vs. Mkize and Others 1960(1) S.A.276 Burne, A.J., remarks as follows (page 280),

"Power to discharge an accused at the close of the Crown case was first accorded by Section 221(3) of Act No.31/1917, in terms substantially similar to those of the present Section 157(3). It seems to me, therefore, that the word "may" has been used in the various sections simply as meaning "is empowered to", and that the court's discretion, in those cases where it has a discretion, flows not from the use of the word "may", but from other sources ..... This discretion flows, in my judgment, from the very nature of the enquiry which the court is called upon to undertake, namely the enquiry as to whether it should or should not grant the application".

"I am doubtful whether, assuming an application for discharge had been made, and assuming further that there was in fact no scintilla of evidence against an accused, a refusal to grant an accused's discharge could be said (on appeal or review) to amount to an irregularity as being an improper exercise of discretion ...."

This latter view is strong support for the view of Roper, J. in Kritzinger's case.

One /....

One more case needs to be mentioned: R. vs. Mall and Others 1960(2) S.A.340. In that case Cooney, J., after referring to the cases of Kritzinger and Mkize, says: "There is much to be said for the proposition that if the Crown fails to make a case, the Accused is entitled to be discharged and not to be put on his defence to face the risk of being convicted out of his own mouth or out of the mouth of a co-accused. If, however, there is a discretion, in the sense spoken of by Roper, J. to discharge or not, clearly this discretion must be exercised judicially (R. vs. Herholdt)". The judge then concluded: "It would not be a judicial exercise of discretion to refuse to discharge an accused if the case against him depended solely upon the evidence of an accomplice in circumstances in which corroboration was required by Section 257, but that corroboration was lacking. It would be wrong to put him on his defence in the expectation that he would or might provide the corroboration". With great respect, I dare to say that the judge is wrong in his approach. For, on the facts given by him, there is surely "some evidence" - certainly not "no evidence" - against the accused in the evidence of the accomplice. There are many decisions affecting the corroboration required as a precautionary rule, or the "confirmation" required in the case of the application of Section 257 of Act No.56 of 1955, of the evidence of an accomplice, and in such cases as R. vs. Hlangwane (paragraph 27 Justice Summary of 1948); R. vs. Volschenk (paragraph 51 Justice Summary of 1948); R. vs. Maninjiva P.H.1959(1) H.73, prominent judges have said that an element to be considered in such cases is the

absence /....

absence of defence evidence in suitable cases. The question whether or not there is such corroboration or confirmation has always been held to be one to be considered when all the evidence has been heard.

The learned judge in Mall's case further considered the possibility gleaned from an exhibit, of a co-accused giving evidence against the accused making the application for discharge, but, on the facts before him decided not to exercise any discretion he may have in favour of the Crown.

On these authorities, what is the reply to the first question? What is meant by "no evidence"? When in fact there is a total absence of evidence the court would naturally have no difficulty in discharging the accused. That would be the position if, e.g. the evidence proves the crime but does not prove that the accused committed it; or if the evidence does not prove one or more essential elements of the crime. But what is the position if there is not such a total absence of evidence? The cases that have been referred to, and the authorities on which they are based, seem to suggest that if the evidence adduced is such that a jury, acting reasonably, properly and carefully, might not should convict on it, then an application for the discharge of the accused should be refused. Conversely, he should be discharged if there is a total absence, or not a scintilla, of evidence, or if the evidence is such that a jury, acting reasonably, properly and carefully, might not

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convict on it. A jury, in being reasonable, and acting properly and carefully, must act with a proper sense of responsibility towards both sides, the prosecution and the defence; it must be conscientious in its consideration of the evidence, and be guided by the interests of justice, which entails a desire to see that no man who is guilty should escape conviction, but also that a conviction takes place only on proof of his guilt beyond a reasonable doubt. And a "reasonable doubt" is not "the mere doubt of a vaccillating mind that has not the moral courage to decide upon a difficult and complicated question ..... doubt must not be light or capricious such as timidity or passion prompts ..... must be such a doubt as, upon a calm view of the whole evidence, a rational understanding will suggest to an honest mind" (R. versus Whiley 1935 C.P.D. 466). In my view this excerpt from the famous Tichborne case reflects an admirably stated standard of approach for a reasonable man to apply when he weighs evidence.

In a superior court trial before a jury, the duty of considering, weighing the evidence, pronouncing upon it and giving findings of fact upon it, rests solely on the jury. But it is the judge who must decide whether there is evidence to place before the jury. In a magistrate's court the presiding judicial officer is both judge and jury, and in exercising his powers under section 157(3) he must, as judge, decide whether there is evidence for him to consider as jury. In the circumstances I venture to suggest that in asking himself, as judge, whether or not there is evidence for him to consider, as jury, he will not weigh that evidence

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~~se~~ as meticulously and carefully as he would when he has to decide whether or not to convict. It is trite law that, even if he has refused an application under section 157(3), and the defence then calls no evidence whatever, he still can acquit the accused on the ground that his guilt has not been proved beyond reasonable doubt. But to hold that, at the closing of the case for the prosecution, he has to give full consideration to all the minute discrepancies and contradictions in the evidence, to all the probabilities and possibilities, to the details of demeanour of the witnesses, and to numerous other factors, would in effect mean that he must, before the hearing of all the evidence perform his duty not of ~~judicial officer~~ judge, but of juryman. In certain cases the evidence may, of course, be so blatantly perjured, or obviously contradictory, vague and confused, that it can, without qualms, be said to be no evidence. That apparently was the case in R. versus Sigonya 1938 E.D.L.D. 306.

But there may be cases in which the guilt of the accused depends on the evidence of a witness who has contradicted himself, or has given evidence in other ways unsatisfactorily, but in respect of whose evidence it could be argued, not without force, that there is a reasonable explanation for the unsatisfactory evidence. In such cases, obviously, it would seem to be the magistrate's duty not to discharge straightaway, but to weigh the evidence carefully in the light of all the other evidence, circumstances, arguments, probabilities and so forth, at the close of all the evidence in the

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case. This would seem to be the case in respect of, in particular, several witnesses mentioned by Mr. Unterhalter in argument,: i.a. Piet Kok as against accused No. 7; constable Fouche in respect of accused No. 30; constable Beyl, the man with the sjambok, against the accused he has identified; and Elias Mvala as against accused No. 75.

As to the second question - what is the nature of the discretion which the court has? - the authorities make it quite clear, in my view, that the discretion is one which must be exercised judicially. The court, as judge, will be guided by some principles already mentioned, i.e. that he has the responsibility of seeing that, without any injustice to the accused, no obviously guilty man be acquitted, but also that the guilt of such man be proved beyond reasonable doubt. If the evidence at the close of the crown case is either totally lacking, or possibly not fully convincing, and there appears from his knowledge of the case to be no reasonable prospect of the deficiencies or the imperfections being cured, he will not hesitate to discharge the accused. But if the evidence is at all reasonably arguable, or if there is a reasonable prospect of the defence evidence, either of the accused or of his co-accused, strengthening the weak or imperfect crown case, he may properly refuse to discharge the accused.

If a judge can, as in the cases of Bosomgwane (referred to in R. versus Machinini 1944 W.L.D. 91) and Mall 1960 (2) S.A. 340 have reference to what other accused may possibly say, there can be no reason why, in a similar case, a magistrate may not do the same. In the case before me there are indications that certain accused, should they elect to give evidence, may give

evidence affecting other accused. Such evidence is usually fully tested by the other accused by cross-examination, and may, of course, be countered by other defence evidence.

These then are the principles to be applied by me in deciding whether or not I must, at this stage, acquit the accused or any of them, on both or either of the two charges before the court.

The first charge is one of Public Violence.

In support of his application Mr. Unterhalter, before dealing with the evidence in detail, posed a query. He has asked the court to consider whether the accused should not be acquitted, as the crown set out to prove that all the accused over the whole period covered by the first charge committed public violence in all the ways set out in the rather full and detailed particulars, but has established only that all, or some of them, committed various isolated acts and not all the acts complained of in the charge. He has argued that, in view of the lack of evidence to establish the full charge, there would really be a misjoinder if different individuals were to be found guilty of isolated acts only. But he had his reservations in making this point, and it is my view that it need not detain the court unduly at this stage. The prosecutor has replied that even if the evidence proves diredt participation of some of the accused in some of the isolated acts, the evidence as a whole is such that the court can reasonably infer that the accused, in performing, these isolated acts, were acting with a common purpose. In this view I concur, for there is certainly not, as I see the matter

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now, a total absence of merit in the prosecutor's views, and that being so I must, on this general ground, refuse the application.

Mr. Unterhalter has also argued, and so have the five undefended accused, that even if I examined the individual proved actions of each accused, I should still discharge them all - on the ground that their actions, and the inferences that can be drawn from them, do not prove participation by them in the crime of public violence. Both sides have quoted numerous decided cases on the essentials of this crime. There is authority, for instance, for the proposition that an accused by being merely present in the riotous crowd is not proved to commit the crime (R. versus Sadie 1938 T.P.D. 136). That is so, but an accused person who is proved by his actions to have been in common purpose with those others in the crowd who are committing the offence, is himself guilty. His participation is naturally proved by evidence of what he did, how he did it, what he said, shouted and how he re-acted to the actions of the others. An individual can, although not proved to have acted in common with the others, be proved to have joined them later and made common cause with them only from that stage onwards (Taylor on Evidence, 12th Ed., par., 592).

Now, there is ample evidence that some of the accused were present at the time of the happenings in Seeiso Street early on the 21st March, 1960, and all later in the day at Sharpeville Police Station. In Seeiso Street there was defiance of the police, stones were gathered in heaps, and were thrown at the police, shots were fired at the police, and at the police station insults and threats were hurled at them; there were shouts of "Africa, Izwe letu"; thumbs were put up and ultimately, after certain incidents, shots were fired somewhere in the crowd, stones, sticks and other weapons were hurled at the police, and that the police then opened fire. There is evidence of public violence committed, not only at the police station, but also during the preceeding night at many places in the township, and in the morning in Seeiso Street, and these would all appear to be interconnected. The mere presence of an accused at any of these places is insufficient. What is of importance is his actions, and they must be such as might lead to a reasonable inference, at this stage of the proceedings, that he was making common cause with the rioters. On this basis there is clearly evidence which implicates all the accused with the exception of two. It is inadvisable to go into detail at this stage. But the evidence against accused Nos. 1 and 2 implicates them strongly in the incidents in Seeiso Street - they appeared to be leaders of the crowd, and their arrest at that early stage of the happenings cannot serve to exculpate them. Accused Nos. 3 (although now not before the Court and not being tried), 4, 7, 8, 38, 39, 75 and 76 were, on the evidence, leaders or active participants in incidents during the night and in Seeiso Street and at the police station. Accused Nos. 19, 22, 27, 30, 31, 36, 41, 43, 63 and 65 were all at the scene at the police station, and various

/ witnesses ....

witnesses have deposed to facts - throwing stones, shouting, thumbs up signs, hostility, egging the crowd on, carrying dangerous weapons, and so forth - from which it would not be unreasonable to infer that they associated themselves with ~~the crowd~~ the crowd and formed part of indulging in the riotous conduct towards the police. The evidence against these accused is such that, in my opinion, a reasonable man, acting properly and carefully, might convict them on the charge of public violence, and the application in respect of them is refused.

But evidence against an accused that he was merely present with and possibly in amongst others indulging in riotous conduct is not per se sufficient proof of his association with them in their conduct (R. vs. Sadie 1938, T.P.D. 136). The evidence in regard to two of the accused is of that nature:-

Accused No. 24, a member of Pan Africanist Congress, was one of those wounded in the course of the shooting at the police station. In other words, he was probably in amongst the crowd there. But that is all that has been said about him.

Accused No. 52 has obviously, in evidence, been confused by ~~the~~ Malakia Motaung with another accused. In any case, if there is evidence suggesting his presence in the crowd at the police station, there is no evidence of his actions and re-actions whilst there. The crowd consisted of some thousands of people, and many of them must have joined it for innocent purposes, such as out of mere curiosity or because of a rumour that a highly-placed official would address them later on the question of passes; a large proportion of the crowd did not join in the riotous conduct. In these circumstances it is quite

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clear to me that there is no evidence against accused Nos. 24 and 52, and, in the exercise of the discretion I have, I found them not guilty atthis stage on count I.

The second charge, which should really have been numbered as the first charge in order to present the charges in chronological order, can be summarised as follows:-

During the period 1st August, 1959, to 24th March, 1960, the accused did, by way of protest against certain pass laws:-

In the main - advise, encourage, incite, command, aid, or procure natives not to be in possession of reference books, or to fail or refuse to produce them on demand;

First alternative - use language, or do acts or things calculated to cause natives not to be in possession of reference books, or to fail or refuse to produce them on demand.

Second alternative - incite, instigate, command or procure natives not to be in possession of reference books, or to fail or refuse to produce them on demand.

Full particulars have been furnished in general in the body of the charge sheet, and as to the part of various accused in particulars in a document headed "further particulars to count II and the alternative charge". These documents also contain an allegation that the

/ accused ....

accused acted in common purpose with each other and with members of an organisation known as the Pan Afficanist Congress.

For the purposes of this application the Court accepts that the Pan Africanist Congress (referred to as the P.A.C. hereafter) had been propagating a vigorous anti-pass laws compaign since about August, 1959, and right up to and including the 21st March, 1960; that it had been urging natives to be prepared for a course of action against the pass laws; that this course of action was announced a few days before the 21st March, 1960, to be that on that day natives should leave their reference books (passes) at home and surrender themselves for arrest and prosecution in large numbers at police stations. Certain dissidents in the P.A.C. suggested not this course of action, but a course involving the physical destruction of their reference books, and simply going about their work and every day affairs without them.

Speeches with this end in view were made by the P.A.C. at their meetings in locations and townships in and around Johannesburg. A branch of the P.A.C. was in existence in Sharpeville location, certain of the accused being officials and members of this branch. Pamphlets and other literature in support of the campaign were distributed in Sharpeville location. Emblems were printed, and worn by certain accused displaying various P.A.C. slogans, e.g. "Africa for Africans", "Away with passes".

During the night of 20th/21st March, 1960, supporters or members of the P.A.C. went about in the location of Sharpeville, arousing the inhabitants to go to a meeting or meetings of the P.A.C. and urging them to leave their passes at home. In the early hours of the 21st March, 1960, various P.A.C. members and supporters

/ urged ....

urged the people of Sharpeville not to go to work, but to go to a police station without their passes, and to surrender themselves for arrest and prosecution. And ultimately a large crowd of natives was so led to the Sharpeville Police Station.

That, in short, is the evidence in general on the second charge. How has the Crown sought to connect the accused with this compaign? The evidence proves that some of the accused were actively engaged in P.A.C. activities over a considerable period before the 21st March, 1960. These men were P.A.C. office bearers or members, attended its meetings either in Sharpeville or elsewhere, distributed pamphlets, printed emblems, took an active part in the activities of the P.AC. and the happenings before the 21st March, 1960, and led the crowds on that day. The accused who did some or all of these things are Nos. 1, 2, 3, 4, 7, 8, 38, 39, 75 and 76. Accused No. 24 is proved to have been a member, but otherwise there is no evidence of any active steps by him. It would be reasonable to infer that the actions of each (except No. 24) connect him actively, although in some cases only at a late stage, with the P.A.C. campaign already described. In respect of these accused there is, in my view, evidence on which a reasonable man, acting properly and carefully, might convict, and the application to discharge them is refused.

There is, however, another group of accused persons. These are numbers 19, 22, 24, 27, 30, 31, 36, 41, 43, 52, 63 and 65. The only evidence possibly connecting them with the P.A.C. anti-pass law campaign is their presence and activities in the crowd which gathered at the police station. Nothing suggests

/ participation ....

participation by them in any earlier P.A.C. activities. Their mere presence in the crowd proves nothing. But, in general, their actions show support of the P.A.C. attitude towards passes. In general, they used and gave expression to P.A.C. signs (thumbs up) and slogans ("Africa for Africans", "Away with passes"); they displayed hostility towards the police, some throwing stones at the police, and using provocative and insulting epithets. On this evidence it could be argued that, at this belated stage, they associated themselves with P.A.C. campaign, but did they do so in terms of the charge? The essence of the charge and its alternatives is the inducing of others to disobey the pass laws, and not merely for the accused themselves to disobey them. Of course, as a leader an accused could disobey the pass-laws, and by thus setting an example, induce others to do the same. But there is no evidence that any of these accused did that. At its strongest the evidence for the Crown against them is that they themselves, in obedience to the campaign, disobeyed the pass laws in the manner in which the P.A.C. wanted them to do so. That being so, there is, in my opinion, no evidence against them on the second charge as framed, and, in the exercise of my discretion, I have decided that they must be found not guilty at this stage.

To summarise, the Court's decision is as follows:-

Accused 1, 2, 4, 7, 8, 38, 39, 75 and 76: The application is refused in respect of both charges;

Accused 24 and 52: The application is granted in respect of both charges, and they are acquitted and

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are discharged.

Accused 19, 22, 27, 30, 31, 36, 41, 43, 63 and 65: The application is granted in respect of the second charge, and they are acquitted on that charge, but it is refused on the first charge.

JOHANNESBURG.
26th April, 1961.

REGIONAL MAGISTRATE

Original charge

MAINLY

THAT the said accused are guilty of the crime of PUBLIC VIOLENCE:

IN THAT, during or about the period 18/3/60 to 21/3/60 and at or near Sharpeville Native Township in the district of Vereeniging and the Regional Division of the South Transvaal the said accused with divers other persons, whose names are to the Public Prosecutor unknown, did wrongfully, unlawfully and riotously assembly and gather together a crowd of persons with intent by violent and forcible means to disturb and endanger the public peace and security and by such means to invade or interfere with the rights of the people therebein or there carrying on business and to make riots and affrays and by the said means to assail or set at defiance the authority of the police and others in public authority there established to maintain law and order, and did then and there make riots and affrays by marching in and with assembled crowds through the streets and public places of Sharpeville Native Township; by threatening and attempting to damage, burn and destroy the premises and property of divers persons there being or there carrying on business, and by actually damaging, burning and destroying certain premises and property there situate and assaulting certain persons and placing in fear divers persons there being, of [redacted] of which the following are particulars:-

That is to say the said accused and divers other:

1. did march in and with assembled crowds of persons in and through the streets and public places of the aforesaid Township carrying and brandishing divers weapons such as axes, knives, sticks, pieces of iron, stones and divers instruments, blowing whistles and shouting in demonstrations of force and strength and/or

2. did wrongfully, unlawfully and maliciously assault Christian Nxumalo, Aaron Mokoena, Francis Motsoakele, Geelbooi Masimula and divers other persons therebeing, whose names are to the Prosecutor unknown by striking or stabbing the aforesaid persons in or about the head and body with sticks, knives, stones, fists or booted feet or similar instruments giving then and there and thereby to the aforesaid persons certain wounds injuries, bruises and divers other hurts with intent the aforesaid persons to do some grievous bodily harm and/or

3. did wrongfully and unlawfully assault Ephraim Nyembezi, Bernard Xingwana and Pillemon Skosana, Aaron Mokoena, Paul Colifant, Christmas Mpempe, Francis Motsoakele, Elliot Oxilishe, Michael Motsapi, Daniel Ralebaso, Jan Nyahisa, Joseph Selanyane, Abel Maboti, Zephaniah Maphike and divers other persons whose names are to the Prosecutor unknown by forcing the aforesaid persons under threat of death or grievous bodily harm to leave the safety and sanctity of their houses or rooms and to accompany the said accused on their rampage giving then and there and thereby to the aforesaid persons certain wounds, injuries, bruises and divers other hurts and/or

4. did wrongfully, unlawfully and maliciously assault one Z. Hoek and ~~one Pegrund~~, H. Sacks, J.C. van Wyk, I.P. Ferreira by striking them with stones and clenched fists giving then and there and thereby to the aforesaid Hoek, Pegrund, Sacks, van Wyk and Ferreira, certain wounds, injuries, bruises and divers other hurts with intent them to do

some / ...

some grievous boidly harm and/or

5. did wrongfully and unlawfully and maliciously break, damage or destroy certain house fittings or window panes the property of Christiaan Nkumalo, Paul Olifant, Jane Kok, Alina Mokwena, Christmas Mpeupe, Piet Mokwena, Francis Motsoakele, Daniel Ralebase and divers other persons whose names are to the Prosecutor unknown, by striking the property with sticks, stones and similar instruments with intent the aforesaid persons in their property to injure and/or

6. did wrongfully, unlawfully and without authority deface, destroy or mutilate divers reference books (as defined in Section 1 of Act No. 67 of 1952, as amended) by burning or tearing the same and/or

7. did wrongfully, unlawfully and maliciously break damage or destroy certain property, to wit bicycles and motor vehicles the property of Christiaan Nkumalo, Paul Mafambela, Presto Dryecleaners, The Vereeniging Municipality and the Union Government and the South African Associated Newspapers, by bouncing the said vehicles about and striking them with sticks, stones, fists and feet and divers instruments with intent the aforesaid persons in their property to injure and destroy and/or

8. did wrongfully and unlawfully threaten or suggest the use of violence to or in restraint upon, and threaten or suggest injury to the property of Christiaan Nkumalo, Paul Olifant, Michael Ntsane, Alfred Maboya, Daniel Ralebase, Raphael Takalimane, Copper Tsanteni, Stephen Ledimo, Abie Toupa, Daniel

Sekotsi / ...

Seketsi, Edwin Moahloli, Zephaniah Maphike, Aaron Gxilisha other persons whose names are to the Prosecutor unknown, to wit by threatening to assault the said persons and by threatening to burn or damage or destroy their property and did in fact restrain all or some of the said persons in order to compel the said persons to abstain from doing in respect of employment acts which the said persons had legal rights to do, to wit, did prevent or attempt to prevent the said persons from lawfully proceeding to their places of employment to carry on their lawful business and/or

9. did wrongfully and unlawfully verbally use opprobious epithets or jeers or jibes to divers persons to the Prosecutor unknown in connection with the fact that the said persons had undertaken to work and/or

10. did wrongfully and unlawfully and maliciously break and damage certain property, to wit telephone cables and installations, the property of the Union Government by cutting or severing the same with intent the Union Government in its property to injureand/or

11. did wrongfully, unlawfully and wilfully obstruct, hinder or interfere with members of the South African Police Force in the execution of their duties or in the performance of their functions by taunting, jeering and swearing at the said police members and by adopting a threatening or hostile attidude and refusing to disperse when called upon to do so or in order to compel the said members of the South African Police Force to abstain from doing any act in respect of the

execution / ...

execution of their duties or the exercise of their powers or the performance of their functions did wrongfully and unlawfully threaten or suggest the use of violence to or in restraint upon the said police members in the manner hereinbefore described and/or

12. did wrongfully, unlawfully and maliciously break and damage certain property, to wit glass windows panes and burglar proofing at beer halls, the property of the Vereeniging Municipality, by striking them with sticks, and stones and cutting tearing or wrenching them with intent the Vereeniging Municipality in its property to injure and/or

13. did wrongfully, unlawfully and maliciously set fire to and set on fire or attempt toset fire to and set on fire a certain beer hall, the property of the Vereeniging Municipality with intent to burn and destroy the same and did then and there and thereby burn and destroy or attempt to burn and destroy a portion of the said beer hall, to wit a door, with intent the Vereeniging Municipality in its property to injure and/or

14. did gather or assemble in a crowd of persons at and round the building of the South Afridan Police Fore at the aforesaid Native Township and did shout at, jeer at, swear at and jibe at members of the South African Police Force and other officials therebeing and did taunt, curse, villify, insult, hurl foul abuse at and mouth impreeations at the said police and otherlofficials and did utter threats, and did blockade, obstruct, hinder, interfere with and

disturb / ...

disturb vehicles and persons entering or leaving the police station and/or

15. did break and damge the fence surrounding the said police station in that the said accused did sieze hold of, out, surge, strain, press, push and kick against the said fence and/or

16. did brandish, wave and feint with axes, knives, sticks, pieces of iron, stones and divers instruments and did make gestures, wave their arms, stamp their feet, gyrate their bodies all the while giving signs in a frenzy of anger and hostility and did incite instigate, command, provoke, dare or challenge the said police and other officials to fight and to shoot, at the same time yelling, screaming and uttering shrilling war cries and other noises and taunts such as, "Africa! Africa! Our Country! Africa, come back to us! Africa, we die for you! White bastards, White Dogs! fucking boere! Fucking dogs! Cato Manor! Cato Manor! Today we kill you all!" and/or

17. did wrongfully, unlawfully and maliciously assault the said police and other officials therebeing by hurling, casting or throwing sticks, stones and divers instruments at, towards and upon the said police and other officials and by discharging firearms giving then and there and thereby to J.S. Joubert, G. Booysens, F.J.C. Stapelberg, L.C. Van Wyk, P.F. Mynhardt, J. Meyer, J.P.C. van Aswegen, P.J. van Schalkwyk, P.M. Smalman, M.W.H. Fourie, T. White, J.S. Smit, S.G. van Niekerk, A.T. Kelles, J.C. Coetzee and H. Schoepers, A.A. Strumig

amen 21/4/69
E.H. Fouché

certain / ...

certain wounds, injuries, bruises and divers other hurts with intent the said persons to kill and murder.

FIRST ALTERNATIVE:

THAT the said accused are guilty of the offence of contravening Section 2(a) read with Section 5 of Act No. 8 of 1953 and further read with Section 15(1) (a) and/or (g) (as substituted by Section 24 Act No. 79 of 1957) of Act No. 67 of 1952 (as amended) and further read with Government Notice No. 1747 of 1957 promulgated in Government Gazette No. 5973 dated the 8th November 1957.

SECOND ALTERNATIVE:

THAT the said accused are guilty of the offence of contravening Section 2(b) read with Section 5 of Act No. 8 of 1953 and further read with Section 15(1) (a) and/or (g) (as substituted by Section 24 of Act No. 79 of 1957) of Act No. 67 of 1952 (as amended) and further read with Government Notice No. 1747 of 1957 promulgated in Government Gazette No. 5973 dated the 8th November 1957.

THIRD ALTERNATIVE:

THAT the said accused are guilty of the offence of contravening Section 18(2)(b) of Act No. 17 of 1956 read with Section 15(1)(a) and/or (g) (as substituted by Section 24 of Act No. 79 of 1957) of Act No. 67 of 1952 (as amended) further read with Government Notice No. 1747 of 1957 promulgated in Government Gazette No. 5973 dated the 8th November 1957 and further read with Sections 1 and 5 of Act No. 8 of 1953.

FOURTH ALTERNATIVE:

THAT the said accused are guilty of the offence of contravening Section 15(1)(a) and/or (g) (as substituted by Section 24 of Act No. 79 of 1957) of Act No. 67 of 1952 (as amended) read with Government Notice No. 1747 of 1957 promulgated

in / ...

in Government Gazette No. 5973 dated the 8th November 1957 and further read with Sections 1 and 5 of Act No. 8 of 1953.

IN THAT, WHEREAS at all places and times where it is alleged that the accused did or omitted to do any act, it is alleged that all the accused at all such times were acting together and in concert and in furtherance of a common purpose and were further acting together and in concert and in furtherance of a common purpose with persons who were members of an organisation knows as the AFRICAN NATIONAL CONGRESS and/or PAN AFRICANIST CONGRESS;

17/8/60.

FIRSTLY:

NOW THEREFORE, the said accused did during or about the period 1/9/59 to 24/3/60 and within the Regional Division of the South Transvaal wrongfully and unlawfully and in any manner whatsoever advise, encourage, incite, command, aid or procure Natives in general or some of them (hereinafter referred to as the said Natives) to commit the offense of Contravening subsection (a)(i) or (a)(ii) and/or (g) of Section 15(1) as substituted by Section 24 of Act No. 79 of 1957 of Act No. 67 of 1952 (as amended) by way of protest against a law to wit the Natives (Abolition of Passes and Co-ordination of Documents) Act No. 67 of 1952 (as amended) or in support of a campaign for the repeal or modification of the said law, or the variation or limitation of the application or administration of the said law, to wit;

(a) by addressing gatherings of Natives or the said Natives and/or

(b) by printing or causing to be printed, distributing, assisting in the distribution, causing to be distributed, circulating or assisting in the circulation or causing to be circulated pamphlets, leaflets, bills circulars and other documents, the purport, meaning

and / ...

and intent of the said addresses, pamphlets, leaflets, bills, posters and other documents being to advise, encourage, incite, command aid or procure the said Natives not to be in possession of reference books issued to them or to fail or refuse to produce on demand of an authorised officer, under Section 13 of Act No. 67 of 1952 (as amended), reference books issued to them, (being persons who attained the age of sixteen years and after the fixed date applicable to them, to wit the 1st day of February 1958) and/or to without authority, deface, destroy or mutilate reference books.

SECONDLY;

NOW THEREFORE during or about the period and within the Division in the First Alternative Count mentioned and described the said accused did wrongfully and unlawfully use any language or do any act or thing calculated to cause Natives in general or some of them (hereinafter referred to as the said Natives) to commit the offence of contravening sub-section (a)(i) or (a)(ii) and/or (g) of Section 13(1) (as substituted by Section 24 of Act No. 79 of 1957) of Act No. 67 of 1952 (as amended), by way of protest against a law, to wit the Natives (Abolition of Passes and Co-Ordination of Documents) Act No. 67 of 1952 (as amended) or in support of a campaign for the repeal or modification of the said law, or the variation or limitation of the application or administration of the said law, to wit;

(a) by addressing gatherings of Natives or the said Natives and/or

(b) by printing or causing to be printed, distributing, assisting in the distribution, causing to be distributed, circulating / ...

circulating or assisting in the circulation or causing to be circulated pamphlets, leaflets, bills, circulars, and other documents, the purport, meaning and intent of the said addresses, pamphlets, leaflets, bills, posters and other documents calculated to cause the said Natives not to be in possession of reference books issued to them or to fail or refuse to produce on demand of an authorised officer, under Section 13 of Act No. 67 of 1952 (as amended) reference books issued to them (being persons who attained the age of sixteen years and after the fixed date applicable to them, to wit, the 1st day of February 1958) and/or to without authority, deface, destroy or mutilate reference books.

THIRDLY:

NOW THEREFOR during or about the period and within the Division in the First Alternative Count mentioned and described and by way of protest or in support of any campaign against a law, to wit the Natives (Abolition of Passes and Co-ordination of Documents) Act No. 67 of 1952 (as amended), or in support of a campaign for the repeal or modification of the said law or the variation or limitation of the application or administration of the said law, the said accused did wrongfully and unlawfully incite, instigate, command or procure the said Natives to commit the offence of contravening sub-section (a)(i) or (a)(ii) and/or (g) of Section 15(1) (as substituted by Section 24 of Act No. 79 of 1957) of Act No. 67 of 1952 (as amended), to wit;

(a) by addressing gatherings of Natives or the said Natives and/or

(b) by printing or causing to be printed, distributing, assisting in the distribution, causing to be distributed,

circulating / ...

circulating or assisting in the circulation or causing to be circulated pamphlets, leaflets, bills, circulars and other documents, the purport, meaning and intent of the said addresses, pamphlets, leaflets, bills, posters and other documents being to incite, instigate, command or procure the said Natives to not be in possession of reference books issued to them or to fail or refuse to produce on demand of an authorised officer under Section 13 of Act No. 67 of 1952 (as amended) reference books issued to them (being persons who attained the age of sixteen years and after the fixed date applicable to them, to wit the 1st day of February, 1958) and/or to without authority, deface, destroy or mutilate reference books.

FOURTHLY:

NOW THEREFOR during or about the period and within the Division in the First Alternative Count mentioned and described and by way of protest or in support of any campaign against a law, to wit the Natives (Abolition of Passes and Co-ordination of Documents) Act No. 67 of 1952 (as amended), or in support of a campaign for the repeal or modification, of the said law, or the variation or limitation of the application or administration of the said law, the said accused did wrongfully and unlawfully not be in possession of reference books issued to them or fail or refuse to produce on demand of an authorised officer, under Section 13 of Act No. 67 of 1952 (as amended), reference books issued to them (the said accused being Natives who attained the age of sixteen years and after the fixed date applicable to them, to wit, the 1st day of February 1958) and/or did without authority, deface, destroy or mutilate reference books.

IN THE COURT OF THE MAGISTRATS FOR THE REGIONAL DIVISION OF THE SOUTH TRANSVAAL.

Holden at Vereeniging

In the matter of THE QUEEN

vs

JOHANNES MONYAKI AND 22 OTHERS.

Charged with the crime of public violence.

A. Please take notice that the Crown will prefer another count with two alternative charges thereto to the existing charge of public violence. A copy of these charges is attached for your information.

B. Please take notice that the Crown will amend the existing charge of public violence by deleting the word "MAINLY" which appears at the top of the first page of Annexure B and the substitution therefor of the words "COUNT 1".

C. You are informed that it is expected that the Crown will commence leading evidence on 27/9/60.

D. The Crown attaches hereto further particulars to Count 11 and the alternative charges thereto.

DIVISION OF SOUTH TRANSVAAL
PUBLIC PROSECUTOR
21-9-1960
PUBLIEKE AANKLAER
DELING VAN SUID-TRANSVAAL

G. Jander
PUBLIC PROSECUTOR REGIONAL DIVISION OF SOUTH TRANSVAAL.

DATED AT JOHANNESBURG THIS 21st DAY OF Sept 1960.

to:- Mr. J. Mutshaeker,
Johannesburg.

New charge sheet - Count 2.

ANNEXURE

COUNT II.

THAT the said accused are guilty of the offence of contravening Section 2(a) read with Section 5 of Act No. 8 of 1953 and further read with Section 15 (1)(a) and (g) alternatively 15(1)(a) or (g) (as substituted by Section 24 of Act No. 79 of 1957) of Act No. 67 of 1952 (as amended), and further read with Government Notice No. 1747 of 1957 promulgated in Government Gazette No. 5973 dated the 8th November, 1957.

FIRST ALTERNATIVE.

THAT the said accused are guilty of the offence of contravening Section 2(b) read with Section 5 of Act No.8 of 1953 and further read with Section 15(1)(a) and (g) alternatively 15(1)(a) or (g) (as substituted by Section 24 of Act No. 79 of 1957) of Act No. 67 of 1952 (as amended) and further read with Government Notice No. 1747 of 1957 promulgated in Government Gazette No. 5973 dated the 8th November, 1957.

SECOND ALTERNATIVE.

THAT the said accused are guilty of the offence of contravening Section 18(2)(b) of Act No. 17 of 1956 (as amended) read with Section 15(1)(a) and (g) alternatively 15(1)(a) or (g) (as substituted by Section 24 of Act No. 79 of 1957) of Act No. 67 of 1952 (as amended) and further read with Government Notice No. 1747 of 1957 promulgated in Government Gazette No. 5973 dated the 8th November, 1957 and further read with Sections 1 and 5 of Act No.8 of 1953.

IN THAT, WHEREAS at all times relevant to the charges it is alleged that the accused and divers others acted together and in concert and in furtherance of a common purpose or acted together and in concert and in furtherance of a common purpose with persons who were members of an association of persons known as the PAN AFRICANIST CONGRESS.

COUNT II.

NOW THEREFORE the said accused during the period 1st August, 1959 to 24th March, 1960 and at Sharpeville Native Township, Vereeniging in the Regional Division of the South Transvaal did wrongfully and unlawfully advise, encourage, incite, command, aid or procure natives in general or some of them (hereinafter referred to as the said natives) to commit the offence of contravening sub-section (a)(i) or (a)(ii) and sub-section (g) alternatively sub-section (a)(i) or (a)(ii) or sub-section (g) of Section 15(1) (as substituted by Section 24 of Act No. 79 of 1957) of Act No. 67 of 1952 (as amended) by way of protest against a law, to wit the Natives (Abolition of Passes and Co-ordination of Documents) Act No. 67 of 1952 (as amended) or in support of a campaign for the repeal or modification of the said law or the variation or limitation of the application or administration of the said law, to wit

/2. ....

(a) by addressing gatherings of Natives or the said natives

OR

(b) by printing or causing to be printed, distributing, assisting in the distribution, causing to be distributed, circulating or assisting in the circulation or causing to be circulated pamphlets, leaflets, bills, circulars or other similar documents

OR

(c) by commanding or procuring the said natives to surrender themselves for arrest by the police or authorized officers

the purport, meaning and intent of the said addresses, pamphlets, leaflets, bills, circulars and other documents and the commands or procurments being to advise, encourage, incite, command, aid or procure the said natives:-

(a)(i) Not to be in possession of reference books issued to them OR

(a)(ii) to fail or refuse to produce on demand of an authorized officer, under Section 13 of Act No. 67 of 1952 (as amended), reference books issued to them, (being persons who attained the age of sixteen years and after the fixed date applicable to them, to wit the 1st day of February, 1958) and/or

(g) without authority to deface, destroy or mutilate reference books.

FIRSTLY.

NOW THEREFOR during the period and at the place in the second count mentioned and described the said accused did wrongfully and unlawfully use any language or do any act or thing calculated to cause natives in general or some of them (hereinafter referred to as the said natives) to commit the offence of contravening subsection (a)(i) or (a)(ii) and subsection (g) alternatively subsection (a)(i) or (a)(ii) or subsection (g) of Section 15(1) (as substituted by Section 24 of Act No. 79 of 1957) of Act No. 67 of 1952 (as amended), by way of protest against a law, to wit the Natives (Abolition of Passes and Co-ordination of Documents) Act No. 67 of 1952 (as amended) or in support of a campaign for the repeal or MODIFICATION of the said law or the variation or limitation of the application or administration of the said law, to wit

(a) by addressing gatherings of Natives or the said Natives OR

(b) by printing or causing to be printed, distributing assisting in the distribution, causing to be distributed, circulating, or assisting in the circulation or causing to be circulated pamphlets, leaflets, bills, circulars or other similar documents OR

(c) by commanding or procuring (or causing to be commanded or procured) the said Natives to surrender themselves for arrest by the police or authorized officers OR

(d) by conducting (or causing the conduction) the said Natives or towards the Municipal Offices and the police station or

/3. ....

(e) by preventing (or causing the prevention of) the said Natives from proceeding to their places of employment OR

(f) by threatening (or causing to be threatened) the said Natives with bodily harm or damage to property or with some form of restraint. OR

(g) by jeering or jibbing at the said Natives

the purport, meaning and intent of the conduct described in paragraphs (a) to (g) hereinbefore calculated to cause the said natives,

(a)(i) not to be in possession of reference books issued to them OR

(a)(ii) to fail or refuse to produce on demand of an authorized officer, under Section 13 of Act No. 67 of 1952 (as amended) reference books issued to them (being persons who attained the age of sixteen years and after the fixed date applicable to them, to wit the 1st day of February, 1958, AND/OR

(g) without authority to deface, destroy or mutilate reference books.

SECONDLY.

NOW THEREFOR during the period and at the place in the second count mentioned and described and by way of protest or in SUPPORT OF ANY CAMPAIGN AGAINST A LAW; TO WIT The Natives (Abolition of Passes and Co-ordination of Documents) Act No. 67 of 1952 (as amended) or in support of any campaign for the repeal or modification of the said law or the variation or limitation of the application or administration of the said law the said accused did wrongfully and unlawfully incite, instigate, command or procure the said natives to commit the offence of contravening subsection (a)(i) or (a)(ii) and subsection (g) alternatively subsection (a)(i) or (a)(ii) or subsection (g) of Section 15(1) (as substituted by Section 24 of Act No. 79 of 1957) of Act No. 67 of 1952 (as amended, to wit:-

(a) by addressing gatherings of the said natives OR

(b) by printing or causing to be printed, distributing, assisting in the distribution, causing to be distributed, circulating or assisting in the circulation or causing to be circulated pamphlets, leaflets, bills, circulars and other similar documents OR

(c) by commanding or procuring (or causing to be commanded or procured) the said natives to surrender themselves for arrest by the police or authorized officers,

the purport, meaning and intent of the said addresses, pamphlets, leaflets, bills, circulars and other documents and the commands or procurments being to incite, instigate, command or procure, the said natives

/4. ...

(a)(i) not to be in possession of reference books issued to them OR

(a)(ii) to fail or refuse to produce on demand of an authorized officer under Section 13 of Act No. 67 of 1952 (as amended) reference books issued to them (being persons who attained the age of sixteen years and after the fixed date applicable to them, to wit the 1st day of February, 1958 AND/OR

(g) without authority to deface, destroy or mutilate reference books.

FURTHER PARTICULARS TO COUNT 11 AND THE ALTERNATIVE CHARGES.

1. The Crown alleges that each accused entered into an agreement express or implied with all or some of the other accused and divers others.

ALTERNATIVELY

That each accused entered into an agreement express or implied with all or some of persons who were membersof an association of persons known as the Pan Africanist Congress (hereinafter referred to in the abbreviated form as "the PAC").

2. The Crown does not know when, where and how each agreement was concluded.

3. The Crown alleges that the existence of the agreement(s) is to be implied from the conduct of the accused.

4. The Crown has particularised in the charge sheet the conduct relied upon.

5. The Crown alleges that the P A C conspired to and conducted and furthered a campaign against a law.

6. The Crown alleges that the aims and objects of the P A C were expressed in resolutions passed and in speeches made at P A C meetings, and in pamphlets issued by the P A C.

7. The Crown alleges that the accused were acting in concert and in furthering the aims and objects of the P A C or adopted and furthered those aims and objects as their own.

8. The Crown refers you to the extracts from speeches made at P A C Meetings held at Johannesburg and pamphlets which it has already furnished you.

9. The Crown alleges that expressions of racial hatred against white persons in general and the white ruling society responsible for legislation and the expressed object of freeing Africa for the Africans as manifested in the extracts from the speeches (copies of which have

already been furnished) form an integral part of the so called "anti-pass" campaign and as such are indivisible from expressions condemning and objecting to "passes".

The Crown alleges that "passes" is synonymous with "reference books".

10. The Crown does not know whether accused 2, 3, 7, 8, 19, 22, 24, 27, 30, 31, 36, 38, 41, 43, 52, 63, 65, 74, 75 and 76 were present at the meetings of the P A C held in Johannesburg.

11. The Crown alleges that on 21/3/60 accused 19, 22, 24, 27, 30, 31, 36, 41, 43, 52, 63, 65, 76 and divers others gathered at and about the South African Police Station at Sharpeville Native Township and did all or one or more of the following acts:-

(a) command or urge the said natives to commit the offences described in the charge sheet.

(b) Shout "anti-pass" slogans and epithets such as "Away with passes - Afrika! " and other expressions conveying a similiar meaning,

(c) command or urge the said natives to surrender themselves for arrest by the police or authorized officers therebeing.

12. The Crown alleges that accused No. 7, 74 and 75 did:-

(i)(a) ON 20/3/60

Command or urge the said natives to absent themselves from work and without authority not to be in possession of reference books issued to them or to fail to produce on demand of an authorized officer reference books issued to them

(b) Suggest the use of restraint upon or threaten the use of violence calculated to cause the said natives to absent themselves from work and without authority not to be in possession of reference books issued to them or to fail to produce on demand of on authorized officer reference books issued to them.

(ii) ON 21/3/60.

Commit the acts already particularised in paragraph 11 hereof.

13. The Crown alleges that accused No. 1 and divers others did:-

(a) ON 19 AND 20/12/59

Attend or was present at a meeting or conference of the P A C held at Orlando, Johannesburg, at which the following resolution was passed.

(i) to call upon the nation to take definite action against the pass laws.

(ii) to call upon the P A C to embark immediately on a campaign of intensive organization for the unity of the nation to get ready for action at any given time.

(iii) to immediately alert the nation and to advise it to be ready for the call for positive action as from then.

(iv) to impose an annual levy of £1.2.6 on every member of the P A C from them.

(b) ON 10/1/60

Attend or was present at a meeting or conference of the P A C held at Sharpville Native Township when one Job Tsolo stated, inter alia, "We are going to destroy white domination against black people in Africa. The only weapon is to fight. There is no freedom without bloodshed"

(c) ON 21/3/60

Gather with divers at or near the Municipal Offices OR the South African Police Station at Sharpeville Native Township and

(i) command or urge the said natives to commit the offences described in the charge sheet.

(ii) shout "anti-pass" slogans and epithets such as "Away with passes - Afrika" or "Niemand dra n donner se pas nie" and other expressions conveying a similiar meaning,

(iii) command or urge the said natives to surrender themselves for arrest by the police or authorised officers therebeing.

(iv) wear, display or exhibit an "emblem" or "ticket" bearing words in substance to the following effect, "Away with Passes - Africa for Africans - P A C" or "Passes must go now P A C".

14. The Crown alleges that accused No. 2 did:-

(a) ON 10/2/60

and at a firm styled African's Cables situated at Vereeniging, print or duplicate or cause to be printed or duplicated "emblems" or "tickets" bearing words in substance to the following effect "Away with passes - Africa for Africans - P A C" or "Passes must go now - P A C ".

(b) ON 21/3/60

Commit all or one or more of the acts particularized in paragraph 13(c)(i) to iv) hereof.

15. The Crown alleges that accused No. 3 and divers others did on 21/3/60 commit all or one or more of the acts particularized in paragraph 13(c)(i) to (iv) hereof.

16. The Crown alleges that accused No. 4 and divers others did:-

(a) ON 19 AND 20/12/59.

Please refer to the particulars given in paragraph 13(a) hereof.

(b) ON 29/12/59.

Attend or was present at a meeting or conference of the P A C held at Sharpville Native Township where, inter alia, the manner and methods in which the aims and objects of the "anti-pass" campaign and matters incidental thereto were to be furthered, were discussed.

(c) ON 10/1/60

Please refer to the particulars given in paragraph 13(b) hereof.

(d) ON 21/2/60

Attend or was present at a meeting of the P A C held at Sharpeville Native Township where, inter alia, the manner and methods in which the aims and objects of the "anti-pass" campaign and matter incidental thereto were to be furthered, were discussed.

(e) ON 20/3/60

Hold or attempt to hold a P A C meeting at Sharpeville Native Township.

(f) ON 21/3/60

Commit all or one or more of the acts particularized in paragraph 13(c)(i) to iv) hereof.

17. The Crown will allege that accused No. 8 and divers others did

(a) ON 21/3/60

Commit all or one or more of the acts particularized in paragraph 13(c)(i) to iv) hereof.

(b) ON 22/3/60

Commit the acts particularized in paragraphs 12(1)(a) and/or 12(1)(b) hereof.

18. The Crown will allege that accused No. 38 and divers others did:-

(a) ON 21/2/60

Please refer to the particulars given in paragraph 16(d) hereof.

(b) ON 21/3/60

Commit all or one or more of the acts particularized in paragraph 13(c)(i) to (iv) hereof.

19. The Crown will allege that accused No. 39 and divers others did:-

(a) ON 19 and 20/12/59

Please refer to the particulars given in paragraph 13(a) hereof.

(b) ON 10/1/60

Please refer to the particulars given in paragraph 13(b) hereof.

(c) ON 21/2/60

Please refer to the particulars given in paragraph 16(d) hereof.

(d) ON 11/3/60

Command or urge the said Natives to attend a meeting in connection with "passes"

(e) On 14/3/60

Did distribute pamphlets or leaflets or cause them to be distributed

20. The Crown alleges that the following persons and divers others were members of an association of persons known as the P A C.

1. Robert Sobukwe - Here
2. Kitchner Leballo - Here
3. Jacob Nyasoe
4. Zephonia Mothopeng
5. Peter Molotsi - Here
6. Selby Ngendane
7. Lennon Mbonzi "
8. Rosette Ndziba "
9. John Welaza
10. Daniel Khunou - Here?
11. Wellington Rongaka "
12. Josias Madzunya - Here
13. Solomon Mathopa - Here
14. Zacharia Mtunzi - Here
15 Abram Mogale - Here
16. Abe Kgare - Here
17. James Thomae "

18. Johannes Phashe - Nzeve
19. Lucas Matlou "
20 George Siwisa "
21 Lancelot Mokgoti "
22. John Makgetha "
23. Michael Tsolo "
24. Job Tsolo "
25. Accused No. 1 "
26. Accused No. 2 "
27. Accused No. 3 "
28. Accused No. 4 "
29. Accused No. 8 "
30. Accused No. 38 "
31. Accused No.39 "
32. Accused No. 63. "
33. Accused No. 74. "
34. Accused No. 75. "
35. Accused No. 76. "
36. Jonathan Nkweka - Nzeve
37. George Ndhlovu "
38. Charlie Ndaba "
39. Joshua Machaba - Nzeve

22. The Crown does not know, except in the case of Accused No. 2, the dates and places each accused printed or caused documents to be printed.

23. The Crown does not know, except where expressly stated in this document, the exact dates upon which it is alleged the accused distributed, assisted etcetera in the distribution of the document, but alleges that this took place during the period 1/1/60 to 21/3/60.

23. The Crown alleges that the accused persons mentioned in paragraph 12 hereof performed this task together with or assisted by divers others.

24. The Crown alleges that in respect of each address to a gathering of natives and each document upon which it relies in regard to count 11 and the first alternative thereto the offence of contravening Section 15(1)(a)(i) alternatively 15(1)(a)(ii), alternatively 15(1)(g) alternatively 15(1)(a)(i), alternatively 15(1)(a)(ii) and 15(1) (g) of Act 67 of 1952 (as amended) was to be commited by the hearers or reader of such address or document.

G. Lacock

PUBLIC PROSECUTOR REGIONAL DIVISION OF THE SOUTH TRANSVAAL.

DATED AT PRETORIUS THIS 21st DAY OF September 1960.

PUBLIC PROSECUTOR
21-9-1960
OPENBARE AANKLAER
AFDELING VAN SUID-TRANSVAAL

21 C 3.

Exh. "YYY"

Date 10/11/60 from Rockey to 3:10 pm

I found the members of the Pan Africanist congress holding a Private meeting at No. 8171 Sharpeville Location I went in and found that they were about 30 thirty members of the Pan Africanist some of the members were as follows Job Tsolo Michael Tsolo Johannes Nongak-knows Dlamini David Ramadike Job Tsolo the Chairman said We are ready to destroy the White domination against black people in afrida the. Only Weapon is to fight there is no freedom without

blood shared and that there are 80 cars Whom are ready to destroy the black nationalism. and they intent to ask for 40 cars from those 80 cars so that they could face each other and said that N.A.C is the only Organisation in Sharpe ville

B/S/Rt Malachyia Armstrong Nov 15
Sharpeville Location
18/1/60

EXH. 90 TRANSLATION FROM S. SOTHO.

Unity is a sentiment of every national group to bind together a people into one nation.

It is the desire to get freedom irrespective of how small the concessions are which are made, as long as it is freedom which is the right of every individual.

It is for this reason that slave masters oppose it when it is under discussion or being spoken about, that is why it is a must for slaves.

EXH. 32

1090

STAND NO. 8.905
SHARPEVILLE,
VEREENIGING.
16.2.59.

Exh 48. ZULU VERSION TRANSLATED.

→ DECISION OF THE NATION.

At the conference of the P.A.C. held on the 19th and 20th December, 1959, delegates from all parts of the Union resolved that the Government should do away with passes completely, and that this step shall be taken at the instance of the Government. The voice of the Nation therefore, warns and alerts you that from today, you should tell all your friends to save money and hoard food as it is obvious to all that the TIMES are hard on the Bantu, so says the African Organisation - the P.A.C. It was also resolved, that every man should make a donation of £1.2.6. towards a fund which would assist the dependants of the Nation. A receipt will be issued to you for this amount, You, as husband must hand the receipt over to your wife, and she will seek assistance from the fund by it, you should send the amount to the Secretary at this address .....

Read this pamphlet carefully and keep it, study and know the names and features of the LEADERS OF THE P.A.C. The President and the National Organisation are the only ones who have been vested with power by the Nation to free us from the misery of passes in this country. The means of achieving this will be given in a future pamphlet, which will be sent through a very senior messenger.

Beware of Unknown leaders from other organisations, who will ask you to follow them, listen to them but do not be led astray at all. We repeat, KEEP THESE PAMPHLETS and do not dispose of them at all. Resolve to do what you will be called upon to do. The Leader of the African Nation is Mangaliso R. Sobukwe, together with the Assistants the Nation has given to him, to free the Nation in its country in 1963.

SHOT ON HIS WAY TO SCHOOL, SAYS TEACHER

Sharpeville inquiry moves to hospital

A NATIVE SCHOOLMASTER of Sharpeville School told the Sharpeville inquiry at Baragwanath Hospital this morning that he was shot while passing the police station on his way to fetch the keys of his classroom cupboard.

Lechaël Musibi said that no children turned up at the school on March 21 because their parents had kept them at home.

On his way back home he learned from people in the street that P.A.C. members had told them that they should not go to work on that day, but to the police station instead, where a "big boss" would address them at two o'clock.

Just after 1 p.m. he left his home by bicycle to fetch his books at the school. When he got there, he realized that the keys of his cupboard were at the home of one of the boys, and decided to fetch them.

He had to pass the police station on his way to the boy's home and rode along the footpath to the right of the building. When he got to the tarred road the shooting began.

FELL OFF CYCLE

"I did not know whether I was shot or whether the crowd fell on me, but I fell off the bicycle. Later I found that I had been shot in the leg.

"After a few seconds the shooting stopped, but when I raised myself, it started again and I dropped down. Many people fell near where I had fallen."

Cross-examined by Mr. P. S. Claassen (Attorney-General of the Free State) the witness said he had heard it said that the "Big Boss" would come from Pretoria and that he was "Chief Commissioner."

He did not intend to go to the police station to hear this man, but went past the station because it was the shortest route. He merely slowed down and did not

THE TRUTH?

Mr. Justice Wessels: When did you first know about the demonstration?—Two or three days previously, but I learnt that morning only that the people were to go to the police station.

Mr. Claassen: You as a teacher did not want to associate yourself with the protest?—Yes.

He had

ROCKET ENGINE FAILED

NEW YORK, Friday.

THE United States Air Force attempt to launch an Atlas missile on a 9,000-mile flight into the Indian Ocean yesterday was frustrated by last-second trouble. One of the rocket's engines cut off after being ignited at Cape Canaveral, Florida.

The missile was due to be launched on a flight past the tip of South Africa to a point about 1,000 miles south-east of Durban. Two U.S.A.F. transports fitted with tracking instruments took off from Durban yesterday for the hoped-for target area — and returned during the night. — Sapa - Associated Press.

Vereeniging official is found not guilty

Vereeniging's Electrical Engineer, Andrew Ferrie Turnbull, of Smuts Avenue, Vereeniging, was found not guilty on a charge of culpable homicide and various counts of contravention of the Factories Regulations of 1941, by Mr. N. W. Blem in the Vereeniging Magistrate's Court yesterday. He was discharged.

The charges arose from the death of Mr. Albert S. Ford (28) of Windsor Court, Fifth Avenue, Florida, who was electrocuted by

PAN AFRICANIST CONGRESS MEETINGS.

The date on which the meeting was held is followed by the place at which the meeting was held. All the places were in the district of Johannesburg.

30/8/1959 - ALEXANDRA TOWNSHIP.

1. SOLOMON MATHOP. We are holding this meeting in order to educate our people politically. Our aim is to free the whole of Africa from Cape to Cairo according to our slogan, "Africa for the Africans".

2. JOSIAS MADZUNYA. In Sekukuniland the people were murdered because of the same tyrannical actions of the white people. This shows us that the White people have come with all sorts of deception in order to destroy our people. You might think that Madzunya is speaking his own madness, but I am speaking the language of Dr. Banda, Julius Nyerere, Tom Mboya and Mr. Nkomo. We are not going to be stopped by anybody because I am convinced that we are on the right path, the path to freedom.

3. ABE KGARE. Our people are victims of great sufferings through the tyranny of these white people. Our people have now become the bread and the money of these whites in the country of their birth. Our duty therefore, is to rid ourselves of this scourge of white domination. You must realise that we are the only oppressed people in this country and when we call for our country Africa we mean to have our freedom in our lifetime.

6/9/1959. - ALEXANDRA - NO. 3 SQUARE.

CHAIRMAN: JOSIAS MADZUNYA. Western civilization means shoot everybody, be stingy, arrest and sent to jail etc.

Tanganyika, Nyasaland, Southern Rhodesia and South Africa will soon have Black states.

JOHANNES PHASHE: Let us join the Pan-Africanist Congress all over to fight for our children.

/20/9/1959 ...

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20/9/1959 - ALEXANDRA - NO. 2 SQUARE.

PETER BOPAPE.

These African police are our brothers and they should know that the Pan-Africanist Congress allow only the Africans to join their organisation. You got freedom in your hands with the key but you don't know where the hole is try to look for this hole before you die.

JOSHUA MASHABA.

Fellow Africans the country is ours, but the laws are oppressive. People are being arrested daily for passes which have been introduced by the Europeans, but come to the P.A.A.C. to get a medicine to cure and to show you that a European is an enemy. I will pass a resolution in December 1959. We are to throw the pass away because we are prisoners wherever we are in our hoses asleep it is still the same.

Itswe Letu.

27/9/1959. - ALEXANDRA NO. 3 SQUARE.

CHAIRMAN: SOLOMON MATHOPA.

Hence we of the Africanist movement are standing for the rights of the African people. We are opposed to multi-racialism because we are the only oppressed people in this land and we should be organised into a purely Black political force for the achievement of our freedom.

To-day the Whites are masters in our land. They have Parliament where they make laws alone for our oppression. We are meeting here to devise means whereby we can get our land back.

PETER BOPAPE.

In order to maintain their position as bosses, the White people have adopted criminal methods for the subjugation of the African masses. They are using methods of destruction because they want to prove that the Africans are not ripe intellectually to govern this land according to these gangsters the Africans should carry passes. They buy these passes from the very same Whites for 3/6 and the latter the same Whiteman is empowered to ask for the same pass from the African people.

/However ...

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However an African has no right to demand for his 3/6 from the European. In respect of this law we have proved how foolish we are. Friends unity is strength. 09 We Pan-Africanist are prepared to go it alone without the advice of the Whites, and if we can be united under that ideal we shall not buy this 3/6 pass and we shall not submit willingly to oppression. Africa Africa.

Yes Africa is our country we shall march to our freedom like the children of Israel Who marched from Phaorah's oppression to the land of milk and honey. Our country.

JOSIAS MADZUNYA.

p15 It all goes in line with Dr. Verwoerd and they all follow the pattern of White domination. We Pan-Africanists say "To Hell with White domination". The White people have lost nothing, but we Africans have lost our land thus we say we cannot allow Indians and Whites to stand on our platforms.

12

p16 Friends beware of the White people. The so called preachers of the Bible are racketeers.

The Pan-Africanist Congress gives the warning to you to save food and keep your money, there is hard day coming. You have heard that Verwoerd says that if he does not establish a Republic he is going to fight to the last drop of blood, but we do not kno with whom he is going to fight. Save food, we urge you to save food and save your money. I am giving you the message from the Pan-Africanist Congress.

p18 But for all I know White justice means that the children of Africa should be sold to the Bethal farms, where you will be killed and made manure. What Verwoerd is going to do is unthinkable and I warn you to be prepared. Hitler started this way he became more mad as time went on until he threw the whole worl into the flames of war.

p23 We want our land fellow Africans, we claim every inch of Africa from Morocco to Madagascar, from Cape to Cairo. I say please fellow Africans save food for the hard days ahead our Country.

JOSHUA MASHABA. When we say this is our country we really mean it. that is why we say Africa for Africans. Our message to you all therefore is that you should save food. You should realise that our enemy is

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/a ..

a Whiteman.

Some say that a White person is good but we say that a rabbit never made friends with hounds.

18/10/1959 - ALEXANDRA.

ABRAM MOGALE - ROY ALFRED WALA MEHEMBU.

"Dear Africans we are being oppressed in our own country by foreigners who escaped from their country being thieves and murderers. We will organise our people to fight with courage for freedom until we get it. In 1939 the war broke again G. Smuts agreed to help the English people and them after the war they were given high seats. Fellow Africans we will not all die when fighting for freedom and we are not yet defeated. Youth should all join Pan Africanist Congress".

1/11/1959 - ALEXANDRA. NO. 3. SQUARE.

JOSIAS MADZUNYA. We have opened our meeting which fights for the liberation of the Africans. The Whites want to oppress us to the last pressure, but the giant of Africa has awaken, we greatly request the youth to join our organisation in order to get independence in Africa because we are not represented in Parliament.

The Pan Africanist Congress has no compromise with Europeans, Indians and Coloureds. We are to fight pass laws we won't only fight against the women's passes we will have to fight totally against the passes.

MICHAEL MOTSELE.

Our leaders are Africans not Europeans in Parktown, Mr. Robert Sobokwe, the President of our organisation. The Secretary of the P.A.C. is K.P. Leballo, I will call upon the Secretary of the world, Mr. S. Temba Mgendane, Mr. Peter Molotsi who writes about anything that goes on, Peter Raboroko also his assistant, N. Nkosi the acting secretary of the reef, Regional Secretary Mr. Motse. Mr. Sobokwe said follow me as your leader, I will lead you until I die.

PETER MOLOTSI.

The African people perservered for a long time called boys. Africans made processions to the Union Buildings on a pass demonstration but nothing happened. We are to lead ourselves.

/In ...

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In Southern Africa our organisation is the only one fighting for freedom. In 1963 we decide to have a world conference, our ll leaders request everybody to organise wherever you are as far as the P.A.C. is concerned I say there is nothing to stop us fighting for freedom. Forward with independence to-morrow with the United States of Africa. Lzwe letu.

KITCHNER LEBALLO.

2 P12

Fellow Africans we are to go on with our struggle. And we will lead you claim for freedom from Cape to Cairo.

ROBERT SOKOKWE.

P14.

In 1963 we will befree but don't be afraid to die let us die for our father's country die for our wives and die for the wealth of our country.

Fellow Africans Europeans should have long been in possessio of passes because they are foreigners we will call you in thousands one day.

MERIAM LEOTLELO.

P17.

Mr. Sobokwe says Africa is for Africans not for any nation we will follow you.

22/11/59 - ALEXANDRA.

JOSIAS MADZUNYA.

P1 This work we are on it is not for one day it is a work of our life even if we have freedom of this country we won't sit down, but we shall stand and protect our country from the enemie who have stolen our country. We are fighting for the whole Afri and form the United States of Africa, we fight from Cape to Cairo, Madagascar to Morocco. We don't go with Europeans in ou Struggle.

P.1 We are going to fight the laws which forms the pass laws a whole thus why we don't want to be led by a European because h is one of those who form all these oppressive laws.

P2 When we fight for pass laws we are not going to fight wom passes or permit separately but we want to destroy pass laws a whole. We of Pan Africanist have passed a resolution saying wh we are arrested there is no fine to be paid.

We want to be the Govt. of this country we dont believe on sending deputations to Pretoria we

/believe....

believe in action.

JONATHAN NKWEBYA .

Mau-Mau has revolt against the Kenya Govt. because they did not have enough land to plough. People are forced to farm labour and mines because they are starving.

P5. We call all of you to come at the P.A.C. and fight these people. During the war we were promised that after the war we shall be given more lands, but we only see flying squads and policemen carrying guns.

People of Abysinnia are fighting for the independence and next year are going to get it but here we are 30 million but we are doing nothing, you must all have P.A.C. cards and we shall see what to do next year, come together dear Africans and be united. We want to go free from Cape to Cairo without pass or permit.

29/11/59 - NALEDI -ZACHARIA MTHUNZI.

We are tired of being governed by foreigners. By 1963 we must rule. Africans this is not time to play. Parliament meets every four times a year making laws to oppress Africans. Africans have their country this South Africa. We must not waste time Africans let us go forward.

DANIEL XHONONG.

Fellow African slaves we believe that you are the rulers of this country and it belongs to you as Africans, as the rightful owners of this Continent, join us. March with us, to independence tomorrow. Form the United States of Africa.

POTLAKO K. LEBALLO.

The Europeans in this country must fall down in its rulling of this country. P.A.C. is advancing towards entire government of Africa by Africans. If we should unite and fight this domination by the white people. For 50 years we wasted our time in the A.N.C. first like an old dog. We shall achieve freedom. Our chiefs would have not lost the Battle of the Blood River, if there was proper unity for Africans. We shall break monuments down and build ours for our heroes. Moshesh and Tshaka will help you and at the same time we shall rest in their arms. White foreign dogs in our continent. All those siging with Europeans shall not stop our way to Freedom. Our names shall be

/written ...

written down in the new monuments to be made. We are marching forward. The Europeans must leave us alone. Indians, Europeans, and Italians must go from South Africa. We stand for the Union of South Africa, the white people must surrender to the rule of Africa by Africans. Foward to freedom Africans.

29/11/59. JOSIAS MADZUNYA. - ALEXANDRA TOWNSHIP.

P4 We of P.A.C. we say our enemy is a pass and we are waiting to tell all people not to carry a pass and to go to the work free. But we people we bought a pass and made it our property because we bought it. We of P.A. Congress we are fighting against the pass 12 law we want to go without a pass. What is the good of carrying an enemy on you?

If you get arrested for failing to produce a pass in Court just ask the Magistrate that whose pass is that? It's not mine as I bought it? In 1960 we must be free from the pass and we must make that we must be free. From next year we of P.A.C. must be fighting against the pass law. But you must know that by so doing we shall be arrested some of us may get 15 lashes and others may go 15 years to jail. We know that we are going near the mouth of the lion. From next year pass law will be abolished from African. We want a freedom. But we shall get a freedom through 16 our deeds.

Please tell other women to come to the meeting and we want to make a plan about the pass, in 1960 we want freedom of Africa.

LUCAS MATLOU.

P7. I want the Europeans to become our boys and they will be our 18 17 boys from next year.

6/12/1959 - ALEXANDRA NO. 3 SQUARE. SOLOMON MATHOPA.

P1 We only want independence, to have our own Government and rule ourselves. The Pan Africanist Congress says let us get ou 13 country back from Whites who captures it 300 years ago. All my Speakers should know what we are speaking about and what we wa We have church but the Special Branch Police never attended an obtained notes because they don't know what they are doing in churches.

/Abe ...

ABE KGARE.

Now what happens is this, every African baby when it is born it is to be issued a pass and they are being refused to work in town then they start stealing and committing unlawful acts. P.A. Congress is calling for unity to form or organize that fights for freedom of the non-whites.

JONATHAN NKWEBA:

The baasskap is going to end for communism will rule in this country. The Dutch people won't be able to shoot and it cannot be denied that nationalism should work according to Communism. The majority of the people are non-whites in this country. The whole world non-whites demand their country back now that is why armoured cars are being ordered.

13/12/59 - ALEXANDRA NO. 3 SQUARE.

SOLOMON MATHOPA.

Our country, our country, Africa, Africa. Freedom in our lifetime. When we walk in the very streets of our land we are supposed to have passes and permits. The Whites are imposing these restrictions on us because they are afraid that we might revolt against their evil policies, yet we in the Pan Africanist Congress are determined to fight for the freedom of the African people. Our policy is different from the policies of other organisations. We stand for rule by the African people in Africa. On the 19th at 2 p.m. we shall hold a conference bf the P.A.C. at Orlando Communal Hall.

A. MOGALE:

I am coming back to nationalism Europeans rule E. Europe, Indians rule India, what about Africa? Africa we say must be ruled by Africans and that is why we are opposed to the belief that Africa is a multi-racial country. We say Africa for the Africans. It is now tim fellow Africans to understand what Nationalism is. If you Africans would appreciate the value of nationalism the political awakens awakening of Africans in this country from Cape to Cairo from Morocco to Madagascar. We shall achieve our freedom through non violent means. We must claim every inch of Africa.

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As is written in the Bible fire will come from the East to the West devouring this country. Then the waters of the ocean and rivers will boil because the blanket of African nationalism will have been spread over the whole continent. We of the P.A.C. believe in freedom for all as soon as we can capture the reins of Govt. and take charge of political power, economic resources and the re-adjustment of the social structure in this Africa. We must be prepared to fight to the bitter end the methods used upon us by the stooges of white domination who believe in the divide rule and principle. On the 19th we shall be in Orlando. We are marching forward fellow Africans, whether the whites like it or not. Our country Africa.

C. NDABA.

38 P1 We of the P.A.C. want our land back. On the 19th we want the whole Alex. Township to go to Orlando.

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NOTAS GENEREM DEUR Nr. 137442 SOLOMON DUNGA BY DIE VERGADENING (3) : "PAN AFRICANIST CONGRESS" ALEXANDRA: 10.1.60.

CHAIRMAN: J. MADZUNYA:(Z) Now the question arises when will South Africa be independent. That day will surely dawn when we shall have an African Democracy in S.A. - a govt. of the African people by the Africans. We habe been asked by many people whether in our organisation we accept w ites as members. Our answer is NO we do not want any Non-Africans in our first step towards independence. When we have ac ieved our independence in S.A. then we shall form a Federation of Free States of S.A. Then we shall be taking the initial steps towards the formation of the United States of an Independent Africa. As it is today we claim every inch of Africa. Africa as a whole belongs to us fellow Africans. When you go to sleep you have to lock and bar your doors because of gangsterism. Gangsterism is born of drunkeness that is so ripe in this country. People live as hoboes and a hobo has no sense to argue national matters intelligently. It is the cause of the low intellectual level of our pe ple as a whole. The white people are guilty of all these wills which are subjecting our people to such a disgraceful position.

JONATHAN NKWEBA: Our country Africa; We are not allowed to move freely in our country w ich is a result of that fierce dragon - the pass. This is the dragon which limits our movements cause or our exploitation as cheap labour force and many other evils. We have from now on decided to fight against this horrible dragon with many heads - the pass. Today we have three heads which you should always bear in mind.

1. An African who has since birth continued to live in a town cannot be permitted to live in another town for more than 72 hours. A man's daughter, a son of over 18 years, a niece a nephew or a grandchild in terms of Act 25/45 Section 1(a) and (c). That is why you see them arrested.

2. If an African born in town has lived continuously there for 15 years his dependants are entitle d of right to visit him for less than 72 hours. All this is born of the co-ordination of documents.

3. If any African was born in a town and has lived there continuously for 14 years and has worked for one employer for 9 years neither his daughter nor his wife nor his son, although they may be dependant upon him is entitled to live with him for more than 72 hours wi th-out permission. That is why you see school children carrying passes. Now fellow Africans under these three heads we are trying to bring to your notice what our plan is going to b e to fight against this dragon. Do not be in a hurry. Wait for our leaders to go in front of us. Do not fear that you will b e shot. Our resolution for this step was :-

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a) To call upon the nation to take definite action against the pass laws.

b) To call upon the P.A.C. to embark immediately on a campaign of intensive organisation for the unity of the nation to get ready for action at any time given.

c) To immediately alert the nation and to advise it to be ready for the call for positive action as from today.

d) To impose an annual levy of £1.2.6d. on every member of the P.A.C. from today.

We shall have to await a national directive for the implementation of this final decision. That what every type of act the National Executive decided upon the slogan of no bail, no fine no defence, will be strictly adhered to. From today you have been warned by P.A.C. to save money and food in order to provide for the rainy day. We do not know when the day will come but it certainly is coming you have heard our decisions today. Our headquarters says we should wait. By 1963 we must be free in this country. You must all be preachers of African Nationalism from today whether you are a P.A.C. or not. Go outside and preach to the people. In these words Mr. Chairman I make an appeal to our membership to pay up their membership fees before March this year when we shall be taking positive action. We need the pressure of the masses in our struggle. Do not forget No bail, No fine and no defence. Maybe before March something will happen. For one thing the lawyers will starve and their touts must not come and worry us.
Forward to independence now.
Freedom in our life time.
Independent states of Africa tomorrow.

CHARLIE NDABA (Z): Today let us begin positive action against the passes. The Albert Street pass office must be closed. Let us prepare ourselves for the destruction of the pass laws. We do not care what the white government of S.A. says about us we are going to work for the abolition of the scourge of the pass laws. People are going to be members of P.A.C. whether they like it or not. Thank you Mr. Chairman; Africa; Africa; Our country; our country.

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/24/1/60 ....

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24/1/60. ALEXANDRA

CHAIRMAN: ABE KGARE:

We have started our meeting to fight against the European people for our country. This country belongs to us but we have no rights in it. The Government that rules this country is of Foreign Countries; that is why we say our Country is taken by whites. We have formed the Pan Africanists Congress to struggle against the oppresive laws of this country. Laws are being passed for Africans daily for oppression. We are being deceived and given a bone without meat but now we want the Government of our own. African will be free from Whites domination whether you like it or not. Basutoland is free tomorrow. We have everything in this country but we want the Government. Only then everything will go well. Even if they shoot you they got to bury you in Africa deported, you remain in Africa.

ABLE MOGALE:

We have been told to throw away passes as it has been discussed at this Square for the time has come and I will call you on that day. But please prepare your provisions. Ghana's free and it will soon get a republic then all other countries will get it but what about South Africa?

JOHANNES PHASHE: But we should get united and then we may abolish the pass laws. Our organisation is especially for Africans only and we are organising what is called a bomb. Africans prepare food as it has been stated because we know what is going to happen and we organise you to follow us as leaders.

JONATHAN NKWEBA: Preparation of provisions has been stated by the previous speakers for the demonstration of passes by our organisation. Police will be armed with Saracens and guns but don't get frightened. We are going to fight against the pass laws and other oppressive laws. We want names of all the women of P.A.C. members because the time has come to an end. We are to organise people in this location. The laws are daily prepared for us and we are no more prepared to listen to them.

/Alexandra ....

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ALEXANDRA: 31/1/60.

13 CHAIRMAN: S. MATHOPA - G. NDHLOVU.

37 We are meeting here fellow Africans today as we do every Sunday in order to rally the African masses and prepare them for the struggle for the liberation of our people. The treachery of the white people has manifested itself in many different ways. We are in bonds here today but we see such people as MacMillan entering our country in freedom and nobody asking him for a pas. Our policy is against white domination in any form. We cannot accept the policy of white liberals and progressives and cannot co-operate with any white political organisation! I shall now call upon my speakers and I want you friends to prepare yourselves on every Sunday to come here. And now we have declared that in 1963 a new Africa will be born from Madagascar to Morocco from Cape to Cairo.

BOPAPE - G. NDHLOVU: Friends the time in which we live demands supreme sacrifices from all Africans. Today every African must know that he is a leader of the masses. When we come to meetings we must all be prepared for action. Further we appeal to the white people to stop trimming our country with white lace and curtains because this country will never lose its identity as we blackmans land. They have tried to kill us but we don't die. Therefore I think we should offer ourselves to death once and for all. Let us stand in a united effort and in one voice say "Africa belongs to us". Everyone must prepare oneself for death and for gaol. The time is nigh whether one likes it or not. I hope that the Special Branch man here will carry my message to the Police. They must remember that the Cato Manor tragedy was caused by the circumstances emanation from the actions of unexperienced young policemen. Iswe Lethy.

G. NDHLOVU: Our country; African: Friends I always want to speak the truth. I want you to thank your luck because freedom is at your doorstep and you have just not opened your doors for it. You are not the people who stand in the way to freedom. The leaders of the African people are responsible for this state of affairs. When the P.A.C. was born the African people's destiny was decided. So we in this movement are going to be free during this year 1960. We must dedicate ourselves for the freedom of our people. No one will achieve freedom without suffering for it. You must be prepared to face death and prison like me. The people of this land are ready to take action to free the country from white exploitation. All be armed against your enemies. Tell them that you are fighting for the liberation of Africa. We say Africa for the Africans. Our policy is only that Africa is for the Africans; This country is not going to be ruled by a white minority as from this year 1960. We do not want their advice nor do we seek for their co-operation.

J. NKWEBA: Fellow Africans, the time for speeches is over. What is now left is action. The people are always very responsive to a call for action in the struggle. I have to repeat our warning that you should save food and money for as it is so hot today it may be raining today? 1960 is a year of freedom. They know that during this year we are going to take over the govt. of this country. We will make them so-called houses of Parliament Zoological museums for pidgeons and other animals. Now again, we want to remind you that our struggle against the passes is going to be intensified. We are going to take up cudgels and axes to fight against the passes.

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We are going to throw away the whole of that dirty piece of legislation. We want to remind the whites that if they want to live in peace with us the pass must go, otherwise the very ~~problem~~ police who are asking us for passes will go to work in the Welkom mines. As can be seen today the whites are making a big exodus from Nyasaland and Kenya into Rhodesia and into S.A. We must tell them that things are worse here because we are going to send them to Australia. We call upon the African people reminding them of the great strides taken by Africa Nationalism to follow the P.A. flag.

ALEXANDRA 7/2/60.

CHAIRMAN: SOLOMON MATHOPA.

P.2 13 If we don't get united and fight for independence whites are going to oppressus to the last pressing. We want independence and self Government. The whites left Europe though poverty then came to our country that has everything. They issued us passes knowing that they were enchaining us. When you are looking for employment they then demand your pass. I am speaking about the pass because it is our enemy.

/But ....

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but I say the enemy is the produces of it. Now we are to fight against this oppression.

ABEL MOGALE: P7 The P.A.C. says get up and gith for your independence. We say Africa for Africans and it must be ruled by Africans. We are to fight against Laws made during our absence because we don't know these Law Makers. We are to state fully that we can't go on and live on under such Laws. We are to state that these laws are oppressive. We are prepared to struggle fighting against the Pass Laws until we die.

JOSIAS MADZUNYA: P8 "IZWE LETO". Now we are going forward to get our independence in our Continent, the Europeans were diffited in Egypt. The Ghananias get their own independence, Nigeria is free and Algeria will get freedom in Kenya, Ganyata was in jail but Tom Mboya took over and they will get freedom. NYERE and Hasting Banda are also fighting for independence. In South Africa we are going to struggle alone on the way to freedom. We don't want help from rich people of this country. Dr. Verwoerd may amend certain laws but we are not going to retreat,.w There is no justice in South Africa, Pan Africanists Congress is here to abolish pass laws in South Africa. We are not going to separate pass laws for women and men. In 1963 South African black men must rule. We demand unskilled workers to get £35 a month. P.A.C. fights for freedom for all Africans. P12 It is time that Africans should wake up and get united but not Europeans to tell us to get united. All those who follow whites in polities are sell-outs they are parasites like tsetse flies. The day we struggle we are going to abolish the beer halls and nobody will drink in them. The P.A.C. says away with pass laws a total abolishment of pass laws because we want to go free. We are not going to call for a demonstration we will tell the people that we don't want to see a pass and we cannot hide it. All Africans are suffering from pass laws and permits the day we abolish pass laws we should go to work sober. If I am Dr. Verwoerd's spy you must kick me out of this organisation.

P47

P2

JONATHAN NKWEBA: The Pan Africanist Congress has greater power for fighting for independence. We demand the Continent of Africa as a whole from Madagascar to Morroco and Cape to Cairo. The whites brought about a pass to oppress us that is why they took our country. We were promised schools for our children and nothing has been done. That is why we are prepared to fight against the pass laws. When you are out of employment when you want another job you are told at the pass office that you and no more wanted in Johannesburg at Room 53. The pass office at Albert Street should be fowl runner this year. The whites are preparing reserves for cheap labour. Let us get united for independence like in Nyasaland. The decision of the "Pan Africanist Congress" is this, "Prepare provision and leave going to the beer halls. Basutoland is free and we must also be freed.

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P5

LUCAS MATLOU: Africans we want brave leaders to lead us we want everybody to know that we are fighting against the pass laws. When our member is arrested there is no bail. We want the Goverrment to collect us and fill all the jails for the Countries is ours. We want the Dutch people to call us Baas. When you go to Springs and Boksburg you are demanded a pass and permit.

19

P6

SIMON PITSWANE: Africans you should all know that there is no other organisation like "P.A.C." because we dont want Indians, Chinese, Europeans and Coloureds. They day of the struggle when I am arrested when my employer comes to pay bail for fine for me I will tell him that I get my instructions from my leaders because there is no fine, no bail and no defence. We don't know the whites are going to shoot us. If they deport me to Pietersburg or Rustenburg I will still organise the struggle and I will throw the passes away. Now we want our children to habe the "Pan Africanist Congress" spirit that Europeans are enemies.

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P8

ABEL MOGALE: Our fathers, Our Country; We are to fight for it. Africans where the truth is the people don't follow but where there is live they follow. The Pan Africanist Congress claims that Africa belongs to Africans. Dr. Nkrumah has been in jail for this Country.

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Dr. Hasting is also struggling in Nyasaland under the banners of Africans nationalism. Nigeria also fights for independence, in Kenya Tom Mboya struggles under the African Nationalism: Tankanyika also fights under the same spirit. Our first step. ? We abolish pass laws".

JOSIAS MADZUNYA: P.A.C. says get moved to any where in Africa because we claim every inch of Africa. We must rule. Kanyate was locked in for 7 years and they thought the spirit of African Nationalism would vanish. There is no justice and democracy in South Africa. The day will come for the struggle. Dr. Nkrumah 12 was locked in for 5 years. Kanyata banned after 7 years from jail but Tom Mboya took over. We are marching to the door of independence. The white claims that this Country is theirs in order to re-condition the minds of the African people. I say restore food and money for the struggle we have been suffering from pass laws. The women demonstrated against passed but they did failed. I will serve pamphlets to all the Police P.A.C. claims for independence and freedom and I want my Goverrnment in my Country. I am saving food for the ? struggle for we are going to confirm the abolishment of pass laws. I am feeling sorry for the African Police who died in Durban. Tell the people from today that they should restore food for the struggle and it will be like a dream when Africans take over. "IZWE LETU".

JONATHAN NKWEBA:

1. It calls upon people to restore food and money for the struggle.
2. ? The P.A. Congress calls upon the Condemn pass laws.
3. 30 I calls upon Members of the P.A.C. to subscribe £1. 2. 6. then the executive will be given power of action against pass laws, no fine, no bail, no defence, when arrested.

VERGADERING (59): PAN AFRICANIST CONGRESS: ALEXANDRA: 21.2.60.

JOSIAH MADZUNYA: The P.A. Congress policy is to allow Africans only to join it. That is why I say the Policy differs from other organisations. Other organisations say they want a Multi-racial 12 society in Africa, but the funniest thing is this, When you go to England, the Prime Minister is an English and in India it is an Indian and other countries follow the same. In African we want an African Prime Minister. The white domination must be destroyed in Africa. As Africans in Africa, we are all demanding self rule, and Government.

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When the whites are trying business, the first sample is served to Africans to Africans. The beer halls are being specially erected for us in order to reduce the African population. They serve sample pills at bus queues so that when they are poisonous we must die. We are going to change the whole history because the whites come to this country empty handed. We want to rule the whole of Africa, we want to form a united States of Africa and show what democracy is. We are all under oppression and the pressure is too much. The Pan Africanist Congress is calling upon the people to condemn the pass laws and it say please save money and food. The pass laws campaign will be all over Africa. We are 200 years under the oppression of pass laws.

ABRAM MOGAIE (S) - SOLOMON NDHLOVU (Z): We have met here through the loss of our fathers country taken by foreigners. These foreigners oppressed us for many years but we should still show them that their time has past. We have already considered that N. Africa is roaring to get independence by why are we waiting? Let us continue the campaign so that in 1963 Africa should be ruled by ourselves. The whites oppressed us by introducing pass laws to men and today they introduce passes to women and this is oppression. I say we are abolishing pass laws this year whether the dutch people bring armoured cars and saracens. We condemn the pass laws.

PHINEAS KHOBOKO (Z) - CALVIN BALOYI (V). I am under the Pan Africanists Congress for we have been long under oppression. No I am talking against the pass laws which worried my father and I also got into the same oppression. Pan Africanists Congress Policy differs from the other organisations because we want to no whites and other races. We are to elect leaders to fight against the pass laws not only to wait that Madzunya should go to jail because he is a leader. We are prepared to die for our Country like what Jesus Christ did. I am prepared to go wherever JOSIAS MADZUNYA lead me to, and I will take over when Madzunya is dead or arrested. We have been respecting the whites but since they introduced "Bantu-Education" they should never be respected.

SOLOMON NDHLOVU(Z) - ALBERT MASHALANE (S): We have met in the year that everybody has to come into action, where everybody has to give up everything even if he dies is nothing. Your children will not die because you are to take care to them. We are slaves through pass laws but if we call a political campaign and succeed is them that we still be able to live in peace. The first enemy is the pass and if we win this we will rule our country.

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Pan Africanist Congress will lead us to freedom and independence.
We are to go step by step until we would reach the Parliament house.
We are to abolish the pass laws; Africa; Africa;

ABE KGARE (S) - SOLOMON MATHOPA (Z): Africa; Fellow Africans, we are slaves and we are struggling on a pllitical point of view, we even lost our brothers through this Political Campaign. We have been given a pass and ordered to pay three shillings and sixpence buying oppression. Waar Kom jy en waar gan jy? Everybody is devising some means how pass laws should be dealt with. There is no African who knows what a pass is and what Pass laws means. We get arrested daily through it. What will happen on this political pass campaign in Africa? When I lost my pass the police are worried against me as the law says "I should be in possession of it. If we abolish pass laws, the whites will starve because they are getting paid through pass laws fines when arrested and buying them. The Pan Africanist Congress says "it is 200 years looking and investigating the pass laws and now the has come to do away with them. Since 1760 the passes was being introduced to enslave the African people of this country. The passes prevents us to look for work wherever we like. The Goverrment never showed anything wrong about the pass laws. I would like to hear from you whether we burn them or leave at homes. The Pass laws are our enemies. When you approach the Bantu Affairs Commissioner and tell him that you dont want a pass like when you divorce your wife they will arrest you. Those who are under the Pan Africanist Congress, the time has come to do away with pass laws but you should know what will happen when they get you, there is no bail no fine and no defence.

VERGADERING (67) : PAN AFRICANIST CONGRESS : MALEDI: 28/2/60.

DANIEL KHUNO: I will call upon speakers to speak and address the youth who are the vanguard of the struggle because the youth are the machinery of the struggle. We are going to teach the youth that the time has come that they must take an action to end the passes. What have done in our fatherland that we are sent with these white enemies to come to oppress and exploit us. The youth shall take a final action in the liveration struggle for the time has come that we take a final resolution to end pass laws. When you go to jail for passes, pay no bail, no fine. When you

go to Court and the Public Prosecutor asks you whether you are guilty or not tell him you are not guilty on the basis of pay no fine, no bail, no defence slogan. People are requested to go to a house at 589 Naledi where the youths are having a party today. Show by action that you are prepared to end pass Laws and by joining the P.A.C.

DANIEL MOTIKA TLADI: The pass is enemy No. 1 of the African people. We are oppressed in our fatherland. Rise my people and look for a remedy of this oppression. Let us all rise up and look forward to meet our enemy the whiteman. We don't want the Europeans. That is why we don't trust the Europeans and we should not rely on them. Therefore let us fight for our human rights. They say "Dit is onse Vaderland". It is not theirs but ours. We are the rightful owners of Africa we shall unite and solve our problem by sharing ideas of how to free ourselves. We shall start by a pass and then march forward until we achieve our freedom because the pass is a corner stone of our oppression which has sent our brothers to cheap labour farms. Now our mothers and sisters are going to be arrested for passes and be sent to potatoe farms. They may arrest and kill our leaders or ban them but new leaders shall come forth. That is why we say Africa for Africans because the Africans must rule themselves. When we say "Africa is our land", the white shiver because the time to demand it has come. We can better leave everything money or work until we achieve our freedom first, Fathers mothers let us unite and be one and have a liberatory spirit. Wherever we are we must know it is our country and we are ruling it, then all shall be well. Now let us take a final step to our freedom.

ZACHARIA MTHUNZI: I stand up to tell you that we are now taking a final action to end the pass laws this year. Everyday the Police raid our fathers and arrest them for pass offences. The time has come that we are no longer begging them and that we don't want any white Govt., because the whiteman is our enemy. Therefore be brave my people and liberate yourselves by taking an action to end the pass laws. Let us therefore march in united African masses and take an action to liberate ourselves for the time has come that the limit of our patience has been reached. We have not time for

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for the whiteman now. Let us demand our Africa back to us.

WEELINGTON RANGAKA: The P.A.C. is the organisation for the youth to lead and liberate the African people from Cape to Cairo. Africa for Africans. The african people are prepared to liberate themselves because they are worthy of it. By 1963 the Govt. of the whiteman must go and the Govt. of the blackman must replace it, a Govt. of

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Africans for the Africans. The whites are trying by all means to preserve white domination in S.A. But through the leadership of the P.A.C. we shall achieve our freedom. We are prepared to go to jail for our freedom. We are in the battle for freedom. Spare food so that when we are in the next coming pass war in the next coming pass war our children must have something to eat at home. We are tired of being dominated and belittled by these whitemen. We want freedome of movement in our country. We have come to a final action to be taken to finish the pass. From toady when our Pres. Sobukwe tells you get to the battle and fight the pass, you must respond without fail. We shall go to jail. We shall not pay fines. We shall not take lawyers but we shall go to jail. We shall leave the passes behind at home and submit ourselves to jail. Now only wait for a command from Bobukwe then we shall respond on that particular day with readiness. Bring £1.2.6. to P.A.C. wich shall feed your children when we are at pass law war.

JOSIAH MADZUNYA: It was shown by African nationalism by those our forefathers shaka, Hintsa, Moshoeshoe, etc. by fighting the enemies and protected their fatherland. Let us seek for our liberty and independence of our country through our own lines, once we get our independence we shall then decide our own destiny. We want the independence of our Country in the administration of the Country. We must drive away the ruling enemy the whites out of our Country. African for Africans and humanity for God. Let us therefore destroy the pass laws first. Let us have freedom of movement in the Country. The Europeans say that passes are made to protect the lives of the African people, therefore if that be the case let the whites, Indians and Coloureds carry the passes to protect their lives. When we take over the Govt. we shall impose these oppressive laws on them , as Dr. Nkrumah did. The Europeans have no right to govern and administrate the laws of this country because they are foreigners. The African people must become the Prime Minister of S.A. We are not begging them but we shall take the Govt. by our bare hands. The Sten-guns, Police detectives, special branch and the nation sell-outs shall not stop the African people marching to freedom. We deplore all white Govt. whether they are nats.P. U.P.or progressives they are all white domination. Dr. Verwoerd abolished the pass laws in 1952. We are now going to confirm what the Govt. have done by putting the passes away. Why must we carry them? Take a step and an action and destroy what you don't want. We want independence and freedom tomorrow.

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MOHOLISWA: Our leaders are calling upon you from Cape to Cairo, Madagascar to Moroka to unite and demand our Africa back and the independence of the black Africa and to establish the United States of Black Africa. Let us take a resolution and take an action to liberate our Country from C. to C. Mad. to Moroko. The time has come. Now the 12th hour has come that we must liberate ourselves from these oppressive. Why must we not fight against their oppression. The time to end the pass laws has come. Spare food and money so that when the day we go to war of passes. Our mothers and children must have something to eat at home. Men are now going to take an action to end pass laws on the basis of no bail, no fine, no defence.

GEORGE SIWISA: I have come to speak about time. If anything is scheduled to happen to a particular time, it must then previsely happen at that time. Now it is the time for our freedom. Freedom is not with leaders but it lies deep within yourselves. Therefore let us liberate ourselves. You are responsible for your own freedom. Unless you free yourself and have freedom in your hearts you won't be freed. Time had events that come and pass. Therefore the time for passes has passed we are only waiting for the results only. Although the passes are out of date there are those people who still want passes to remain existing because they have exploited and lived on them. The time shall come when we shall put an end to the pass laws by appropriate action which must be taken by the masses of the people themselves. Forward and backward never. Our brains are chained to the pass to the extend that we believe that the pass is greater than our lives. When P.A.C. says leave passes you must leave then and be free.

NGCOBO: In 1905 there was the pass war in Natal - Bambada's rebellion. For 25 years in Natal there were no passes, Natal showed that it can stand in the pass struggle. The P.A.C. has found it fit to stand up for the oppressed and liberate them. P.A.C. calls upon all the oppressed to determine themselves and be ready for the pass campaign which shall soon take place. The pass campaign is not a little thing therefore the people must determine themselves for this action. About 430 Africans died at Coalbrook Mines because they could not choose the type of work and the place they want to work in but they were compelled by the influx control to the mines. Each and everyone must determine himself against the pass because we are no longer prepared to go and die at Coalbrook mines again passes are now extended to our women. Women at Natal are ready for action against passes.

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They are only waiting for a command. To get freedom you must determine yourself to go to jail and even death for that matter. All men in the next pass campaign shall take active part. Women shall see that no man remains behind at home. In the pass campaign all blackmen whether a Policeman shall submit himself to jail. Any African Police who shall not take part, the women shall ask him why is he not in the campaign. At Cato Manor the Police have been instructed not to raid houses for passes. Today we have no freedom of movement because of the pass. This battle starts in 1960 to 1963. We must fight until we get our freedom. By 1963 we shall be ruling this country. Dr. Nkrumah says Ghana is not free whilst other parts of Africa are not free. 5 million Europeans cannot oppress 31 million of African people in Africa. We do not believe in petitions and deputations but in action. By 1963 we shall have made the United States of Africa by uniting E. & W. N. & S. and establish the 3rd world power. Therefore spare food and keep money money because we are all going to jail for passes. Women shall question those who shall remain behind. We believe that the Tvl. shall play its part. The Cape is determined in this struggle and the nationalism spirit is prevailing the Cape. Natal is prepared to take an action on the full scale in the pass campaign.

RANYAKA: The youths are the vanguard of the struggle. Old men follow with women and children. We in the Transvaal shall not stay back when the war of passes and other pass laws is on in the other provinces. I call upon the youths to come to the struggle and liberate our people. Youths in Nyasaland liberated Dr. Banda. We must free the young Dutch youths and meet them force by force.

NGCOBO: There will be 3 circulars 1st shall warn the people. 2nd shall come 3 days before the action. 3rd shall come where the leaders shall lead the people in the pass campaign. I shall lead the people in Cato Manor and Siwisa in Sophiatown. That is why there must be the national fund of £1.2.6. to help our women and children. There shall be women committees elected to look after the families when men are in jail. Mr. Libalo has been arrested for the pass. We cannot tolerate the Govt. arresting the people at this juncture. On the day of launching we P.A.C. shall lead the people to connect the machinery and see that it is functioning.

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28/2/60 - ALEXANDRA.

SOLOMON MATHOPA:

P1 Fellow Africans, we meet here at this square every weekend to discuss our political views, under the policy of the Pan Africanist movement. We are to teach and create the spirit to others in order to have more members. You all know what the political views of the Pan Africanist Congress are. We are under oppression. My wife and I have agreed to obtain passes but they are snakes, and the best remedy is to throw all passes away. We have all heard what happened in Nyasaland, Algeria and Belgium Congo, that black Africans are struggling for independence. The Pan Africanist Congress policy does not allow other races than black Africans to join the organisation. We are on a political campaign of pass laws. The day of the struggle some of us may die. The whites in Parliament are not willing to abolish pass laws because we will be free. P.A.C. says "We are to abolish the passes this year, it will call upon its members to go direct where they are ordered to go to. If you are being arrested don't say we made you to get arrested. We P.A.C. MEMBERS are abolishing pass laws. These pass laws oppressed Africans all over on the farms and in towns is the same. Our livestock has been reduced and we are being refused to enter and other places through pass laws. Organise this pass law campaign all over even in beerhalls.

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JOHANNES PHASHE : - ROY ALFRED MTHEMBU: Slaves of Africa I say let us not leave our tradition. Rhodesia is to get freedom and self-Government with their tradition. Basutoland has just been freed. What about ourselves? Let us go today for these passes. Africans you got the jail key and let us die brave like Jesus Christ. If you are a Minister of Religion when you go to Benoni and Brakpan they check yourpass and say you got no permit. Let us all be brave on this pass campaign. Let us not fear to go to jail. P.A.C. says you are all free if you want to.

SIMON PITSOANE: Fellow Africans we all read news papers that the whites are surprised to hear that we are on a pass campaign because the P.A.C. Congress is ready for action. The pass laws have been oppressing us for 200 years, but the P.A.C. promises to abolish them. It doesn't allow any race than a black Africans to join the organisation. The meeting which was held at the City hall last week the crowd feared the movement of the P.A.C. and they wanted that the Government should observe it immediately. I am supposed to pay income tax and my wife has to carry a pass. My child of 16 years of age has to carry a pass and go back to stay on the farms. We are tired of these oppressive laws when one of your relatives has died at Bethal Farms they don't bring the pass back at home. How many of you have been arrested for pass laws this year. There is (now a) way of independence. We can get in exception of taking P.A.C.'s action and constitution that when you are being arrested there is no bail no fine and defence. The whites are being paid according to their labour but we are not through these pass laws. There is a rumour as you heard that we are going to start our struggle against the pass laws on the 31st March, 1960 even if I get arrested for 6 months is nothing. I will come back. Africans prepare food and save money because the spirit of the struggle is on and is coming.

ABRAM MOGALE - GREEN MMEDZI: Independence cannot come to us without having struggled. We are to choose what to do for the Country is ours and the rules of the whites should be terminated. In 1963 whether the whites like or not we are prepared to rule our country. Whites are oppressors and their first arms are pass laws. The whites have taken our lives took on the farms and they have reduced our fields, issued passes to females which marks a badge of slavery. The Dutch people are busy issuing farms to our relatives. We know that people are being buried in Bethal farms through the passes. The whites may use saracens and sten-guns, we are not afraid. We will go where we like without passes. I say away with passes from black Africans. I am prepared to die for the black people of this country. You know that happened 429 Africans died at the Coalbrook Mine through passes.

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Follow the P.A. Congress's action. I beg our forefathers to give us back to win the pass campaign.

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28.2.1960.
VERGADERING (68) : "PAN AFRICANIST CONGRESS" : MZIMHLOPE:

CHAIRMAN MACDONALD LEOBILE:
It is a great pleasure to welcome you at Msimhlophe our message is we are at war against pass laws and other humiliating laws. I therefore say your co-operation will win a success in this campaign of passes. Let us plunge ourselves in this struggle. We have million of oppressed people who are determined to break the chain of oppression. We cannot waste time by demonstrations and boycotts. It will be our aim when we have won the pass laws that these pass laws will never exist again. I am therefore calling you to come and participate in this struggle and freedom will be ours. Our aim is to unite Africans under the banner of P.A.C. to over throw the white domination, to try and achieve freedom. There is a nation to lead and struggle to fight and in the end there is freedom.

SILAS NTENGO: We are troubled by passes. The pass is causing many suffering. It is our determination to break the chain of pass laws. Our young boys are unable to obtain work on account of a pass. We have therefore assembled hereto close that tap. We must be determined. No one must remain behind until we rule Africa, because it is ours. It is a black continent.

JAMES THAMAE: At Natal people killed police. All that was caused by oppression. People are arrested all over for passes. The people who died at Coalbrook died digging coal for overseas., Europeans died for something which was not theirs. Look at Natal people have been arrested even when there was no prove that those people were concerned in the killing.] Ghana is free now. Dr. Nkurmah said that he will not be pleased unless he sees that other African territories in Africa are also free. Thats why you see Mboya and others making such a noise. Mboya advocates freedom in Kenya. The Africans all over in Africa are shaking also in Tanganyika. Dr. Banda is in jail on account of the same trouble of freedom. We have hope that when he comes out of gaol he will be a Prime Minister. In the Federations the Africans are determined to achieve freedom and they demand their country back. The Union Govt. is making preparations for their Festival./ They will be pleased to have oppressed us ever since they formed Union of S.A. All these happenings I have mention are caused by oppression. Therefore to bring these to an end let us try and bring the land back to the right owners.

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Let us co-operate as P.A. has appealed to us to unite in the struggle for freedom. The white in S.A. are beginning to be afraid because we are not turning back. // It is the aim of the whites to defend themselves perhaps by Union defence force and saracens. But we of P.A. we don't care. The pass campaign will not be the end of our struggle. It will be the beginning. The pass is the cause of all trouble. Some other methods will follow. We can't tell you the day. The leaders know. People should save enough food. People will not go to work, schools will be close that day. Men will be in front and will not go to work. Men will enter jails. The passes will be left behind. The men will take their trains as usual as though going to work but instead will go to Marshall Square. Do not be bailed out, refuse when employers come to bail you. The Govt. want the Africans to pay income tax. The People will not be dismissed from their jobs, but will return to their jobs from jails. We want to put the Europeans in a difficult position. No fines will be paid. They must give us our demand. After pass laws we shall boycott shops which don't treat Africans properly. Be ready from now on. All pass system will be frought. Mr. Sobukwe will give the day as the leader. I want to see those who wish to support us. Those who want to join must do so now.

MTEMBU MATSHOBA:

Mr. Chairman it is true the people are trouble by passes. As we are sitting here we are prisoners. Our women carry passes, perhaps as I am speaking here my wife may have been arrested. I am therefore appealing to you to support the struggle of pass campaign.

JERRY RADEBE:

We have met here under the auspiese of P.A. Congress. Let us do all we can to rule our people. We have been compelled to be taught B. Education and force to carry a pass which we don't like. The campaign has been launched from now on. Many people have been forced to dig potatos in Bethal. Let us end all these sufferings let us be determined to fight passes. Join in my people we are going forward we are not turning back in this struggle. The Accra people have already said the United state of Africa. Independence today to morrow United State of Africa.

CYPRIAN SOTHONDOSHE:

The Pan Africanists have taken a decision to end pass laws. The detectives writing must be pardoned a hungry stomach knows no law. We want people like Sgt. Arlow who speaks once the second time is a sound of a revolver.

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28/2/60.

VERGADERING (70) : "PAN AFRICANIST CONGRESS" : MOFOLO:

CHAIRMAN, R. NDZIBA:

This meeting is for the P.A.C. of Mofolo Branch. This organisation stands for freedom from Cape to Cario. All other races rule themselves Russia for Russians. Africa for Africans.

C. TSOLO:

Everyone has got a slavery paper that is a pass. Our organisation is from Cape to Cario. We are determined to fight for freedom of Africans. We must get rid of passes and sit down.

ISAAC MLATSHWAYO:

We are here as P.A.C. in the land of our forefathers we have become tools. We are on the march of freedom. We want to rule ourselves in Afrika. We must rule Afrika as our mother country.

MAKOTI LETSULO:

The time has come for us to demand what we want. A man dies once not twice. We are sending out to the nation. You have seen how we have fought the pass campaign. The A.N.C. also is bluffing saying is doing so. Two A.N.C. leaders doubted to go to jail when asked. They suggested to see the Consultive Committee, about that question. Chief Lutuli doen not like chieftainship only. He is believed to be a Chief of everybody. Today we have leaders in the P.A.C. We judge A.N.C. by the Kliptown Charter. On that basis we must go to the people, This call is completely for the abolition of passes. When that day comes, we shall leave the passes at home. We have confidence in every man. We shall leave the passes at home that is all. There will not be any stoppage in this campaign. Government will promise you of allgood things. Pass campaign will be hand in hand with the stoppage of work. We want to abolish passes. We demand more pay about £35 a month. No man must be penalised in our P.A.C. no deportation, no banning. No man must negotiate with our Org. without R. Sobukwe. Those are five demands we need. The leader will tell you what to do.

MORLEY NKOSI:

This is a dedicated struggle. The entire call is for the African people from Cape to Cairo. Africans are the originals of Afrika. P.A.C. represents the liberation. Our objective is one Afrika belongs to Africans. It is a duty for every individual here that the P.A.C. is marching forward. We must invest the youth of Afrika. Oppression is on top of us.

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Everyone of us by virtue of being black is oppressed. The African people do not want any help. The black people have long been longing for leaders. We are determined to march forward you shall get the message by one voice from one man, the way how we shall fight pass laws. Keep your money and food. We don't know how long we shall take in our struggle. I want to assure you that by 1963 we shall get our freedom. We shall all wait for the voice of our leader. Forward to freedom.

LENNOX MLONZI:

P.A.C. is ruling the whole Continent of Afrika to be freed. By 1963 every African must be freed in Afrika. Ghana has promised to free the Africans in Afrika. We must free ourselves. Wherever you are as long as you are black you are oppressed. Our struggle differs from A.N.C. We are demanding our land immediately. Let us know our enemy that is a white person (Europ). We want to go alone. Our leaders have decided to do away with the passes. There is no white person who can help any Africans. We have enemies in our doorstep. There is nothing to fear Africans. The P.A.C. has now opened the road to all those who want proper leaders. The time for you to join P.A.C. has now arrived otherwise you may be too late. The P.A.C. shall inform all their followers how to fight this struggle which is nearby. To struggle in the A.N.C. circles is a waist of time and energy. There is no confidence to any European as long as he is white. The voice of Sobukwe will be heard in the whole Continent of Afrika that day and you will be told what to do and what not. We dont believe in multi racial as Lutuli does. Have one spirit and listen to the voice of Robert Sobukwe he is going to make an urgent call to all Africans.

VERGADERING (62) PAN AFRICANIST CONGRESS: ALEXANDRA 6.3.60

ABEL MOGALE. P.1. Africans we are meeting as people who are oppressed. We say Africa for Africans. P.2 We also look at the Cator Manor incident where Police were killed, we find that it's through the Govt. as it is always trying to frigten the people. People were arrested for permits, passes etc. 13 Africans we are facing many difficulties, the P.A.C. appeals to all Africans to join the P.A.C. Africans what does the killing of Africans teach you? We think that the time of the white rulers in South Africa has come to an end. P.3 Who are the majority for South Africa? Africans are the majority P.4 therefore Africans must rule their country. Africans I say 15 to you we have been oppressed for the past 300 years. We are oppressed through the pass laws. We want only Africans in our organisation. You must see what action to take. The time has come when we will have to abolish the passes. Africans what do you gain from the passes. P.6

CALVIN BULOYI. We are oppressed by the pass laws known as the dragon. The Chairman had told you that we are fighting for freedom. We are fighting the pass laws. I as a member 16 of P.A.C. I am tired to be ruled by somebody for the past 308 years. We are fighting the pass laws. Africans I appeal to you all to join the P.A.C. so that we can be able to fight the pass laws. I don't want to speak about the Europeans. Africans are like the soil of Africa, Europeans don't look like the soil of South Africa. When we read the Europeans books we find that passes are abolished. P.7 Europeans are not born here. Our skins are not the same with theirs. Africans I appeal to you to join the P.A.C. Africans I give you this message. Keep food and money away. Our country! Our Country!

JOSIAS MADZUNA! P.9 We are marching forward and we will reach where we are going to. P.10 We of the P.A.C. our demand is one equality to the Nations. P.10 We are going to fight until we achieve our independence and freedom. Some people will think that we are dreaming when we say we are going to abolish passes. People like Bishop Reeves are not carrying passes and permits. They preach that you will get your freedom in heaven. Why 12 must only Africans carry passes and we are the only people who pay poll tax. We are the people who are digging potatoes in Bethel and who are killed. Do ducktails carry passes? Audience no. If passes were good for us why don't other nations carry them too? Black people are oppressed by White domination.

The British at Kenya were oppressing the people but where are they today? They have also tried in Nyasaland but they have failed. The time will come when they will have to run away without being chased. Europeans got nothing in South Africa. When they go they will have to go empty handed. I wish I can live till we rule, I will do the same to them. You see Dr. Nkruma is deporting them. I will demand to be the Minister of Justice. I will send all the Police to demand the permits from the whites for about two months. The day when the leaders declare the campaign open, we will not pay fines, bail or defence. We will not plead to laws which are not made by us. You coward men, you must wake up. We are not going to disclose our plans, but you must be ready at any time. You cannot tell your enemy which day you are going to fight him. We are not stupid to tell the Government that we are going to act on a certain day. We only say we are abolishing passes this year 1960. If I can tell you to go to work tomorrow without a pass will you do so? (Audience Yes). Do you think the Europeans will abolish passes? Verwoerd said he had abolished the passes in 1952. He said it's a Reference Book. That day I will ask the Non European Police to resign and join the struggle with us. Africans I appeal to you all to save food and money even you the police you must save food and money. Dr. Banda told his people the same. Dr. Banda will be released very soon. I appeal to you to join the P.A.C. an organisation for Africans only. Our organisation is for people who carry passes. The passes will be abolished this year.. Our Country! Our Country!

LUCAS MATLOU

Africans the time has come. We have appealed to you to keep food away. Africans we are prepared to be arrested any time, to be arrested daily for a pass. It's all rubbish. The time has come that we will take the passes back from where we bought them. The chairman has taught us a lot. Mr. Chairman please give us the day to abolish the passes we are waiting.

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13/3/60. ALEXANDRA.

JOSIAS MADZUNYA.

11.

I will have one speaker only becuase we must go out on organising people. We are here under the P.A.C. which is only got Africans in this country of Africa. Our struggle is one we want freedom. P2 The Government is doing all evil laws selling our people and killing them. This shows that they are the devils messengers. We are fighting with the devil Government of South. We shall have a peaceful Government and there will be no passes, no influx control. 12 P3 I have told the Golden City Post that we must destroy the pass laws completely and that there is no stay at home. What we are fighting is passes. Everybody must be demanded passes in the streets irrespective of colour. P3 People are killed in Bethal carrying passes but these passes don't come and report that the owner is killed. We don't believe in demonstrations and protests but we believe in positive action. They have went to Pretoria to protest against passes helping the Government with the money they have paid in the railways. When we are arrested no bail no fine and we won't plead to any charge, because we will be

already/...

already be arrested. We fight to free Afrika in September Africans are bribing out the British Imperialism and in Algeria they are also driving the French Imperialism here in South Africa the Dutch people will go. Let Verwoerd dream of his republic. I appeal to Africans to ~~dilp good~~ because the day will come when you will be unable to go out to the shops. You of the Special Branch go and tell the Government that the African people want to rule their country. We are going to abolish the pass laws because Verwoerd gave us the way.

ABE KGARE. You have heard where Pan Africanists are going. You heard that you must keep food and that pass laws must be destroyed because they cause oppression to Africans. Here in South Africa we have two camps, there is the white camp which is forming all bad laws for the black camp. You must keep food, whether we go to jail or die we must all go, but we want our own country to be ruled by us. The Europeans of this country are scared because we are claiming to rule our country. You have heard of many countries where people have claimed their countries and today they are free, why can't South Africa be free when Ghana and Basutuland are free. At Belgium Congo Europeans are running to South Africa because the Africans are claiming their rights. Mothers are crying because the husbands are killed in farms because of passes and today they are coming to women. I wonder who will be looking after children when we are all arrested. We are waiting for new life which we shall live without a pass but we shall go to work.

67.

VERGADERING (80) "PAN AFRICANIST CONGRESS": ALEXANDRA: 20.3.60.

CHAIRMAN J. MADZUNYA. Freedom in our lifetime. We have again met under the auspices of the Pan Africanist Congress. We say we do not want the milk we want the cow. Hence we do not want freedom but independence. We do not want to have the vote but we want to rule ourselves in this country and make our own laws. In terms of African nationality we want independence and freedom. Most of you have heard about the war that we have declared against the passes. We are going to fight against the passes to the bitter end in S.A. We are prepared to go it alone in our struggle until victory is achieved. We shall not accept foreign leadership in our organisation until we achieve our independence. You have heard that the campaign against passes is due to be launched tomorrow but we are differing within our organisation. Some say that we should leave them at home and surrender ourselves at the Police Stations, but I say we must destroy the passes and go to work. If you leave passes at home, surrender yourselves at Police Stations and not go to work you shall have still be possessing a pass. I say we should destroy this pass and forget about it. I also say that the campaign was not properly organised. Now you have seen the Sunday Times reporting that I have been expelled from the P.A.C. The day we destroy passes we shall not leave them at home. The leaders are afraid to say we must destroy the passes because they fear the Criminal Law Amendment Act and the Public Safety Act for in terms of that Act the penalties are very severe. You only read in papers that Madzunya has been expelled from P.A.C. but I am not expelled. We must first be organised fully well in order to launch any particular campaign in the same way as what Banda did for the people of Nyasaland. For two hundred years the pass has been in existence and in order to destroy it forever, you must organise the whole of South Africa. If you don't do it you are open to ridicule in the same way as that the women did when they went to trample flowers at Union Buildings. They started saying, "Yes we trod down the flowers of Union Buildings", and still come back with passes in

their pockets. These protests do not work among the African people because you Africans have no vote. The only thing that is required is dynamic action. You must have 80 or 90% of the people following you in order to destroy the pass effectively. I want the total abolition of passes and their substitution by Identification certificates. We cannot be free while sitting down. The pass will never be abolished unless you organise and organise.

G. NDHLOVU.

Africa, Africa, Izwe Lethu. I am not going to say much except this. You have been told in the past of leaders who wanted you to die first but now nor have leaders like me who are prepared to die first for you. I say this from the deepest portion of my heart. I say tomorrow I am going to throw away this pass and surrender myself at the Police Station. If I lose a pass, I shall be more free than my brothers. At 7 a.m. tomorrow I shall be here at this Square and I shall march with all those who want to go with me to the Police Station.

ABE KGARE - P. BOPAPE:

Children of Africa, the P.A.C. has ordered that all Africans should surrender themselves at Police Stations as a way of fighting against passes.

With the Compliments

of

ROUTLEDGE. DOUGLAS WILSON. AURET & WIMBLE

Jack, Request for Particulars herewith

Hans

ST. ANDREW'S BUILDING,
39, RISSIK STREET,
JOHANNESBURG.

P.O. Box 306.

Phone ~~31-4161~~. *835-3811*

REGINA

vs.

PAULOS MAKWANAZI, AZAEL KUTOANE, MOSES SHANGU, DANIEL MOTHIBEDI,
MATHEWS MOSHIYA, ELIOT MOHKOBENI, PETRUS MOKELE, GEORGE QUTWYA,
JOHANNES SERETLO, THOMAS MAIMANGA, SIMON MAKUBO, ISHMAIL NGATI,
EUGENE SOBANI, SOLLY MOTSITSE, BENJAMIN MOROO,
GEORGE YONA, JOSEPH MAKUBA, PETER THABANE, ELLIOT KUBEKA,
ABRAHAM MOFOKENG
SAMUEL POOLO, SIMON MHLAMBI, JACOB NHLAPO, MICHAEL LESOANE,

REQUEST FOR FURTHER PARTICULARS TO CHARGE.

MAIN CHARGE:

1) Ad Paragraph 1 to 17 inclusive:

(a) With reference to the expression "and or" which appears at the end of paragraphs 1 to 16 inclusive -

(i) Is it intended to allege that all the accused committed every act referred to in paragraphs 1 to 17 inclusive or alternatively that all the accused committed the acts referred to in one or other of the said paragraphs, or

(ii) Is it intended to allege that some of the accused committed the acts referred to in one or more but not all of the said paragraphs and that others of the accused committed the acts referred to in others of the said paragraphs?

(iii) If the answers to sub-paragraph (i) and (ii) above are in the negative, what precisely is the expression "and or" intended to convey?

(iv) / ...

(iv) If the answer to sub-paragraph (1) above is in the affirmative, full particulars are required indicating precisely when, where and by whom each of the said acts is alleged in the alternative to have been committed.

(v) If the answer to sub-paragraph (ii) is in the affirmative, full particulars are required indicating precisely when, where and by whom each of the said acts is alleged to have been committed.

2. Ad Paragraph (1)

(a) Is it intended to allege that the accused marched with two or more distinct crowds?

(b) If so, which of the accused marched with each such crowd?

(c) What weapons or instruments did each accused carry or brandish?

3. AD Paragraph (2):

(a) The Prosecutor is requested to state, with regard to each of the named complainants and each of the "other persons" separately, which of the accused are alleged to have assaulted such complainants or other persons.

(b) What instrument or instruments did each accused use?

(c) What wounds, injuries, bruises or other hurts did each complainant or other persons sustain?

4. Ad Paragraph (3):

(a) What threats were uttered to each of the named complainants and to each of the "other persons"?

(b) / ...

(b) By which of the accused was each such threat uttered?

(c) The word "thereby" is not understood. Is it intended to allege that the complainants and other persons suffered injuries and hurts as a result of the threats employed by the accused or through some other instrumentality? If through some other instrumentality, the Prosecutor is requested to give precise particulars thereof.

(d) In any event, the Prosecutor is requested to state which of the accused caused hurts and injuries to each of the named complainants and other persons.

5. Ad Paragraph (4):

(a) The Prosecutor is requested to state, with regard to each of the named complainants and each of the "other persons" separately, which of the accused are alleged to have assaulted such complainants or other persons.

(b) What instrument or instruments did each accused use?

(c) What wounds, injuries, bruises or other hurts did each complainant or other persons sustain?

6. Ad Paragraph (5):

(a) What property of each of the named complainants and of each of the "other persons" was damaged and what was the precise nature of such damage in each case?

(b) / ...

(b) What property of each of the named complainants was destroyed?

(c) Which of the accused are alleged to have damaged or destroyed each such article of property?

(d) What instrument did each accused use?

9. Ad Paragraph (8):

(a) What threats were uttered to each of the named complainants and to each of the "other persons"?

(b) By which of the accused was each threat uttered?

10. Ad Paragraph (9):

(a) What words were uttered by each accused?

11. Ad Paragraph (10):

(a) What telephone installations, other than telephone cables were broken or damaged?

(b) How many separate installations were broken or damaged?

(c) Which of the accused broke or damaged each such installation?

12. Ad Paragraph(11):

(a) What duties or functions were the members of the South African Police Force executing or performing?

(b) / ...

(b) What words were used by each accused? The Prosecutor is requested to tabulate separately those words which are relied on as stating:-

(i) taunting, jeering and swearing;

(ii) threats or suggestions of the use of violence.

(c) In what manner did each accused adopt a threatening or hostile attitude?

(d) Who called upon the accused to disperse?

(e) From what act did the accused intend to compel the members of the South African Police Force to abstain?

13. Ad Paragraph (12):

(a) Which of the accused broke and damaged each article of property referred to in this paragraph?

(b) What instrument did each accused use?

14. Ad Paragraph (13):

(a) Is this paragraph intended to allege a single act of setting fire or more than one such act?

(b) Which of the accused are alleged to have committed the said act or each such act if there was more than one?

15/ ...

15. Ad Paragraph (14):

(a) What words were uttered by each accused? The Prosecutor is requested to tabulate separately those words which are relied on as stating :-

(i) taunts, curses, villifications, insults, foul abuse and imprecations;

(ii) threats.

(b) How many vehicles and persons were blockaded, obstructed, hindered, interfered with and disturbed?

(c) In what manner was each such person and vehicle blockaded, obstructed, hindered, interfered with and disturbed?

(d) Which of the accused are alleged to have committed each act referred to in this paragraph?

16. Ad Paragraph (15):

(a) Which of the accused are alleged to have cut the said fence?

(b) Which of the accused are alleged to have surged, strained, pressed pushed and kicked against the said fence?

17. Ad Paragraph (16):

(a) What instruments did each accused wave and brandish?

(b) What is meant by the expression "feint with"? Which of the accused did this and with what instrument?

(c) / ...

(c) What gestures did each accused make and what signs did each accused give?

(d) What words did each accused use?

18. Ad Paragraph (17):

(a) What missiles or instruments were thrown by each accused?

(b) Which of the accused discharged firearms?

(c) What wounds, injuries, bruises or other hurts were sustained by each of the named complainants?

(d) Is it intended to allege that any of the said wounds, injuries or other hurts were sustained as a result of the discharge of firearms? If so, by whom were such injuries sustained?

ALTERNATIVE CHARGES:

19. Ad Paragraph beginning "in that whereas":

(a) The expression "an Organisation known as the AFRICAN NATIONAL CONGRESS and/or PAN AFRICANIST CONGRESS" is not understood. Is it intended to mean that there was in existence one Organisation known by either or both of these names or that there were two separate Organisations?

(b) Is it intended to allege that each accused entered into an agreement, expressed or implied, with each of the other accused and

with other / ...

with other persons who were members of the Organisation or Organisations named?

(c) If so, when, where and how was each such agreement concluded by each accused :-

(i) With each of the other accused?

(ii) With the persons who were members of the organisation or organisations named?

(d) If the existence of any such agreement is implied from the conduct of the accused, full particulars of such conduct are required.

(e) If no such agreement is alleged, what is meant by the allegation that the accused were acting in concert and in furtherance of a common purpose with the said persons?

(f) Who were the persons referred to who were members of the Organisation or Organisations named?

20. Ad Paragraph headed "FIRSTLY" :

(a) On what date and at what place did each accused address a gathering of Natives?

(b) What words were used by each accused on each occasion?

(c) On what date and at what place did each accused :-

(i) / ...

(i) Print documents or cause them to be printed?

(ii) Distribute documents, assist in the distribution or circulation thereof or cause them to be distributed or circulated?

(d) Whenever it is alleged that the accused caused documents to be printed, distributed or circulated, the Prosecutor is requested to state who the accused caused such acts to be done.

(e) The Prosecutor is requested to set forth the contents of the said documents or as many of them as he relies on.

(f) With reference to each address to a gathering of Natives and each documents which he relies on the Prosecutor is requested to state which of the offences created by Sub-Section (a)(i) or (a)(ii) and (g) of Section 15(1) of Act 67 of 1952 was to be committed by the hearers or readers of such address or document.

(g) When, where and by whom was the alleged action conducted?

21. Ad Paragraphs headed "SECONDLY" and "THIRDLY": The same particulars are requested as have been requested to the paragraph headed "FIRSTLY".

22. Ad Paragraph headed "FOURTHLY":

(a) When, where and by whom was the alleged campaign conducted?

(b) / ...

(b) Is it alleged that all the accused were not in possession of reference books during the whole of the period 1st September 1959 to 24th March 1960?

(c) If not, on what date or during what period , was each accused not in possession of a reference book?

(d) On what date and at what place did each accused fail or refuse to produce a reference book on demand by an authorised officer?

(e) Who was the authorised officer who demanded such production from each accused?

(f) On what date and at what place did each accused :-

(i) deface;

(ii) destroy;

(iii) mutilate

reference books?

(g) How many reference books did each accused

(i) Deface;

(ii) destroy

(iii) mutilate

and to whom had each such reference book been issued?

(h) In what manner were such reference books

(i) defaced;

(ii) destroyed

(iii) mutilated?

DATED at JOHANNESBURG this ~~20~~ 15 day of JUNE, 1960.

(SGD.) J.R. ANDERSON.
ROUTLEDGE, DOUGLAS WILSON, AURET & WIMBLE,
St. Andrew's Building,
39 Rissik Street,
JOHANNESBURG.

TO: THE PROSECUTOR,
REGIONAL COURT.

IN THE COURT OF THE MAGISTRATE FOR THE REGIONAL DIVISION

OF THE

SOUTH TRANSVAAL.

HOLDEN AT VEREENIGING.

In the matter of REGINA

versus

JOHANNES MONYAKE & OTHERS.

Charged: Mainly — Public Violence.
First alt. — C/s 2(a) Act 8 of 1953.
Second alt. — C/s 2(b) Act 8 of 1953.
Third alt. — C/s 18(2) (b) Act 17 of 1956.
Fourth alt. — C/s 15(1) Act 67 of 1952.

With reference to your request for further particulars dated the 18th June, 1960, the Crown replies as follows:-

MAIN CHARGE.

1. AD PARAGRAPHS 1 TO 18 INCLUSIVE.

The Crown declines to furnish particulars to these requests.

ALTERNATIVE CHARGES.

2. AD PARAGRAPH 19(a).

You are kindly requested to delete the words "African National Congress and/or" from the charge sheet in your possession. The Crown will delete these words from the original charge sheet.

3. AD PARAGRAPH 19(b).

Yes.

4. AD PARAGRAPH 19(c)(i) and (ii).

The Crown does not know. It is pointed out that these are facts peculiarly within the knowledge of the accused.

5. AD PARAGRAPH 19(d).

The Crown declines to reply to this request.

6. AD PARAGRAPH 19(e).

The Crown declines to reply to this request.

7. AD PARAGRAPH 19(f).

Accused 1 : Johannes Monyake. ✗
Accused 2 : Thaddea Ntoampe. ✗
Accused 3 : Nyakane Tsolo. ✗
Accused 4 : Thomas More. ✗
Accused 8 : Emmanuel Teketsi. ✗
Accused 38 : Stefaans Lepee. ✗
Accused 39 : David Ramodibe. ✓
Accused 63 : Lechael M'subi. ✓
Accused 74 : Moses Mooi. ✓

Accused 75 : Paulus Moleko. ✓
Accused 76 : Peter Molefe. ✓

8. AD PARAGRAPH 20(a).
The Crown alleges that the accused are criminally liable as co-conspirators.
The Crown will not lead evidence of speeches made at public meetings held at Sharpeville Native Township under the auspices of the Pan Africanist Congress.

9. AD PARAGRAPH 20(b).
Please refer to my paragraph 8 above.
Attached please find copies of extracts from speeches alleged to have been made at Pan Africanist Congress meetings at Johannesburg. ✗

10. AD PARAGRAPH 20(c) (i).
The Crown does not know. However the Crown will lead evidence to support the allegation that on 10/2/60 and at a firm styled African Cables at Vereeniging, Accused No. 2 (Thaddea Ntoampe) printed or duplicated or caused to be printed or duplicated "tickets" or "emblems" bearing words to the following effect, "Away with passes - PAC - Afrika," (The Crown is not sure of the exact words or the sequence in which they are set out).

11. AD PARAGRAPH 20(c)(ii). ✗
The Crown does not know.

12. AD PARAGRAPH 20(d). ✗
The Crown does not know.

13. AD PARAGRAPH 20(e).
Attached please find copies of the documents the Crown will rely on.

14. AD PARAGRAPH 20(f). ✗
The Crown declines to reply to this request.

15. AD PARAGRAPH 20(g).
When.
During or about the period 30/8/59 to 24/3/60.
Where.
Regional Division of the South Transvaal.
By whom.
Please refer to the paragraph commencing "IN THAT, WHEREAS" at the top of page 6 of the charge sheet, as amended by my reply under paragraph 2 hereof. ✗

16. AD PARAGRAPH 21.

You are referred to my paragraphs 8 to 15 inclusive hereof.

17. AD PARAGRAPH 22(a).

You are referred to paragraph 15 hereof.

18. AD PARAGRAPH 22(b).

No.

19. AD PARAGRAPH 22(c).

Please refer to paragraph 20 hereof.

20. AD PARAGRAPH 22(d) and (e).

For the sake of convenience the Crown will set out the number of the accused person followed by the date upon which the Crown alleges the offence was committed and the name of the authorised officer:-

Accused 1.	The Crown is not certain if his reference book was demanded.	x
Accused 2.	21/3/60	D/Sgt.Wessels and/or Cons. Beyl.
Accused 3.	21/3/60	Col.Spengler and/or H.Con. Heyl.
Accused 4.	21/3/60.	Col.Spengler and/or H.Con.Heyl.
Accused 5.	Reference book not demanded until 27/4/60.	x
Accused 8.	Reference book not demanded until 27/3/60. by Det/Sgt. Lerm.	x
Accused 19.	21/3/60.	D/Sgt. Coetzee or another police officer whose name is not known at the time of this document.
Accused 20.	21/3/60.	Same as Accused 19.
Accused 24.	21/3/60.	D/Sgt. Coetzee.
Accused 27.	21/3/60.	D/Sgt. Coetzee.
Accused 30.	A female, reference book not demanded.	x
Accused 31.	The same as Accused 19.	
Accused 36.	21/3/60.	D/Const. Labuschagne.
Accused 38.	1/4/60.	D/Sgt. Bester.
Accused 39.	1/4/60.	H/Cons. Polson.
Accused 41.	The same as Accused 19.	x
Accused 43.	21/3/60.	Const. Struwig.
Accused 52.	The same as Accused 19.	
Accused 63.	21/3/60.	Const. Labuschagne.
Accused 65.	Reference book not demanded.	
Accused 74.	Reference book not demanded.	x
Accused 75.	Reference book not demanded.	x
Accused 76.	21/3/60.	D/Sgt. Muller.

21. AD PARAGRAPH 22(f).

During or about the period 20/3/60 to 24/3/60, the exact dates are to the Crown unknown.

22. AD PARAGRAPH 22(g).

The Crown does not know how many reference books each accused is alleged to have defaced, destroyed or mutilated.

23. AD PARAGRAPH 22(h).

By burning and/or tearing and/or making unauthorized entries therein.

24. GENERAL.

PLEASE TAKE NOTICE that the Attorney-General has been pleased to withdraw all charges against the following accused persons:-

5, 6, 9 to 18, 20, 21, 23, 25, 26, 28, 29, 32, to 35, 37, 40, 42, 44 to 51, 53 to 62, 64, 66 to 69, (70 is deceased), 71 to 73.

The remaining accused who stand charged are:

1, 2, 3, 4, 7, 8, 19, 22, 24, 27, 30, 31, 36, 38, 39, 41, 43, 52, 63, 65, 74, 75, 76.

These accused persons will retain their numbers. To alter numbers at this stage would be to confuse matters.

(Sgd.) G. Laudin

PUBLIC PROSECUTOR : REGIONAL
DIVISION OF THE SOUTH TRANSVAAL.

Dated at Johannesburg this 9th day of August, 1960.

1. Messrs. Routledge, Douglas Wilson, Auret & Wimble,
P.O. Box 306,
JOHANNESBURG. (TELEPHONE 835-3811).

2. Messrs. Snijman, Smullen & Smuts-Muller,
P.O. Box 38,
VEREENIGING. (TELEPHONE 642-1001).

Adv. J. Unterhalter

With the Compliments

of

ROUTLEDGE, DOUGLAS WILSON, AURET & WIMBLE

Continuation of Sharpville
Further particulars.

ST. ANDREW'S BUILDING,
39, RISSIK STREET,
JOHANNESBURG.

P.O. Box 306.

[redacted]
TELEPHONE 838-3811

THE DAWN HAS COME

THE GREAT AWAKENING HAS STARTED.

Are you playing your role in the POSITIVE & FINAL ACTION AGAINST THE PASS LAWS ?

Are you -- because of indifference, because of fear, because of despair, because of apathy -- betraying the Africans' struggle against the PASS LAWS?

Are you shouldering your share of the burden against the PASS LAWS?

Are you with the ---

15,000,000 Blacks suffering under the PASS LAWS which they do not understand and which those who arrest them understand even less!

15,000,000 Blacks homeless in their own fatherland because of the Pass Laws; rootless, because of the Pass Laws; jobless, because of the Pass Laws; exploited, because of the Pass Laws;

15,000,000 Blacks PASS - CHAINED, PERMIT - CHAINED MOVEMENT-CONTROLLED, POLICE - RAIDED, HAND-CUFFED;

15,000,000 Blacks --- professors, ministers of religion, teachers, doctors, attorneys, advocates, tribal chiefs, clerks, exploited labourers, miners, (suffocating themselves six hundred feet underground to scratch up gold for the white man,) school boys, nurses and even MOTHERS with babies on their backs ---
PERSECUTED IN ISOLATION
EXPLOITED IN ISOLATION
BANISHED IN ISOLATION.

REMEMBER --- the prisons are full -- the farm prisons are full the potato plantations are waiting!

HOW LONG WILL IT GO ON!

HOW LONG?
HOW LONG?
HOW LONG???

If you too have seen the DAWN, send in your donation to help the Campaign Funds to

The National Secretary,
Pan Africanist Congress,
P.O. Box 1610,
JOHANNESBURG.

LET'S TALK ABOUT PASSES AND PASS RAIDS.

2

NO. 1625

ALERTING THE NATION

NO BAIL! NO DEFENCE ! NO FINE!!!

Anyone who gets this circular should keep it. He will have got hold of history. These are the elected leaders of the Nation, dedicated to the cause of African Freedom and Independence by 1963:

DECISION OF THE NATION:

At the conference of the Pan Africanist Congress held on the 19th and 20th December, 1959, it was resolved that the President should call the Nation to take Positive, Decisive action against the Pass Laws any time this year.

It was resolved, also, that each person should make a donation of £1. 2. 6d. This money will be used to care for the Widows and Dependants of the Nation.

The President will call upon the Nation very soon to honour its resolution. The Order that goes out to the Nation, therefore, is:-

(a) Save food, save money immediately.

(b) Send your donations, immediately, to The National Secretary, Pan Africanist Congress, P.O. Box 1610, JOHANNESBURG, Transvaal.

(c) Keep this Circular. Remember these leaders. They will lead you into action. Your orders will come from them only.

(d) Be ready for the call, Know what we are fighting for. It is a noble and glorious struggle calling for service, sacrifice and suffering from the African people.

(e) This is going to be a disciplined, mass campaign. Orders must be carried out faithfully. If we all play our part, if we all cling together, no force can defeat us. We will win.

(f) We will do away with Pass Laws once and for all. There is no doubt about that. There is no need for any of our people to die from police bullets to achieve this. Discipline and an Iron will are what we need.

Children of the Soil, we are on the side of history. In 1960, we take the first step - in 1963 the last:

Issued by the Pan Africanist Congress, P.O. Box 1610, Johannesburg

?

INTLABA - MKHOSI

UKUBHATALWA BHEYILI: AKUTHATHWA GQWTHA: AKUHLAWULWA NTLAWULO

Ligeineni eli phepha, Liyimbali yesizwe. Esi sinkikheli zeSizwe esizinikele ekukhokeleni isizwe enkululekweni nasekuzilawuleni ngowe 1963.

Emkomfeni yeSizwe ebi ngowe 19 nowe 20 kweyomNga kugqitywe ekubeni uMongameli abizwe ukuba sithathe inyathelo eliqatha lokubhubhise nokutshitshisa YONKE IMITHETHO yamaPasi. UMongameli uzakusibiza KWA KAMSINYANE, Ke ngoko liphuma lisithi iliswi.

(a) Goinani ukutya; Goinani imali ngoku.
(b) Thumelani ngoku iminikelo ye £1. 2s. 6d. ku: SECRETARY, PAN AFRICANIST CONGRESS, P.O. BOX 1610, JOHANNESBURG. Lemali izakondla inkedama nabahlolokazi besizwe.
(c) Zikhumbuleni ezi nkokheli; Iliswi liyakuvela kuso sodwa QHA Ningalahlekiswa:
(d) Hlalani nilindile: Yazini into esiyilwelayo ukuze kwakuwa nokuba ngubani na ebulawa zimbumbulu samadlagusha, nazi ukuba ufele ntoni na.
(e) Akukho mfaneko yankcitho-gazi. Into efunekayo LUMANYANO, NENDILI. Imiyalezo ithotyelwe. Ayakuphela amapasi ngonaphakade.

Bantwana Bongquba, Lindelani iswi lesigodlo.

Linyathelo lokuqala eli: Elokugqibela solithatha ngowe 1963:

:IZWE LETHU - I AFRIKA

Tkhutshwa Lisebe LikaNdlunkulu womButho wenkululeko e-Bawutini.

P A S S E S

M U S T G O N O W...

NO BAIL

N O D E F E N C E :

N O F I N E !!!

Sons and Daughters of Afrika,

The national conference of the PAN AFRICANIST CONGRESS, held on the 19th and 20th December, 1959, decided that the President should call on the African nation to take DECISIVE POSITIVE ACTION against the PASS LAWS. The President, Mr. Mangaliso R. Sobukwe, shall make that call very soon.

Therefore Remember this Message !

1. Save food, save money now.
2. Send in your cash donations to the National Secretary, Pan Africanist Congress, P.O. Box 1610, Johannesburg. This money will assist the dependants of the nation.
3. Remember your leaders. The call to action shall come from them only. Do not be deceived by others.
4. Be on the alert. Know what we are fighting for, so that should anyone fall in the struggle you should know what he was fighting for.
5. There is no need for bloodshed. What is needed is UNITY and SACRIFICE. In 1960 we take our first step, in 1963 our last, towards freedom and independence.

FORWARD THEN - TO POSITIVE ACTION NOW.

Issued by the National Executive,
Pan Africanist Congress,
P.O. Box 1610,
JOHANNESBURG.

PASSES ARE HATEFUL -

PASSES ARE HUMILIATING -

PASSES ARE DEGRADING.

OUR CAMPAIGN

IS FOR REAL

INDEPENDENCE

2.

L I P A S A

HA L I F E L E

HA U NTSIOE KA BEILI :

HA U SIREletsoe :

HA U LEFELLOE !!!

Ma-Afrika !

Bolokang pampiri ena Re litaba tse kholo tsa sechaba,

Phutheho e kholo ea sechaba, ha ene e kopane ka li 19 le 20 tsa December 1959, eile ea qeta hore Mookameli oa lekhotla la sechaba a etse boipiletso ho ma-Afrika hore a nke bohato bo matla ho felisa hang-hang feela melao echle e amaneng le lipasa, 'Me Mookameli o Tla etsa mokhosi haufinyana. Hona joale lentsoe lere :-

1. Bolokang lijo le chelete.
2. Romelang limpho tsa chelete ho : National Secretary, Pan Africanist Congress, P.O. Box 1610, Johannesburg. Chelete ena e tla thusa bana le bafutsana ba sechaba.
3. Hopolang baeta-pele ba lona. Lentsoe le tla hlaha ho, bona feela. Lehlokomele le se ke la mamela ba ka thoko.
4. Itukiseng. Tsebang seo re se tsekang.
5. Ha re batle tsollo en mali. Re batla kutloano le boitelo Litaelo li mameloe ka botsepehi. Melao ea lipasa e tla felisoa ka hosafeleng.

AFRIKA LE FATSE LA ROMA - IZWE LETHU !

Issued by the National Executive,
Pan Africanist Congress,
P.O. Box 1610,
JOHANNESBURG.

PASSES ARE HATEFUL -

PASSES ARE HUMILIATING -

T O K O L O H O N G

MA - AFRICA

C A L L I N G T H E N A T I O N !

NO BAIL ! NO DEFENCE !! NO FINE!!!

This is the CALL the African people have been waiting for. It has come ! On Monday the 21st March 1960 we launch our POSITIVE, DECISIVE CAMPAIGN against the PASS LAWS in this country.

(A) <u>OUR DEMANDS</u> :-

1. We demand that the PASS LAWS BE TOTALLY ABOLISHED.
2. We demand a MINIMUM WAGE, established by Government legislation, of £35 per month or £8.3.4. per week, which must be paid throughout the country.
3. We demand a guarantee that NO WORKER shall be dismissed because of this campaign.
4. We demand a guarantee that the leaders shall not be victimised either by the LOCAL AUTHORITIES or by the GOVERNMENT as a result of the African people's positive action.

(B) These are my ORDERS, and if we must win, these ORDERS MUST BE FAITHFULLY OBEYED.

In every city, town and village, the men will leave their passes at home on Monday the 21st March 1960.

(C) Under the local leadership of the Pan AFRICANIST CONGRESS, the men will move to the chosen Police Station and there surrender themselves for arrest. The leader will tell the Police that: "We all do not have Passes. We will not carry Passes again. Millions of our people are arrested under the Pass Laws, so you had better arrest us all, NOW.

(D) If you are stopped by the Police on the way, and they demand passes, surrender there and then for arrest. If one man is arrested for not having a Pass, you all stop there and then. Tell the Police that you do not have Passes either. Demand that they arrest you all.

(E) All men will go to jail under the slogan of NO BAIL, NO DEFENCE, NO FINE. The women will be assigned their historic role, but in the first phase of the struggle they must make sure that all men go to jail.

(F) <u>DURATION OF CAMPAIGN</u>.

Nobody will call this Campaign off, except the National President of the Pan Africanist Congress, who will do so at the meetings of the people. DO NOT ALLOW ANY NEWSPAPER, CIRCULAR LETTER OR OFFICIALS OF THE GOVERNMENT to mislay you.

So long as the Campaign is on, NOBODY WILL GO TO WORK. Let us stick together, the people and their leaders. It is now time for SERVICE, SACRIFICE AND SUFFERING. That is the spirit in which we must go into action.

FREEDOM FROM PASS LAWS, SLAVE WAGES, ETC. ETC. N O W !!!

<u>GOD SAVE AFRIKA AND HER PEOPLES</u>.

Issued by the National President,
PAN AFRICANIST CONGRESS.
(Mangaliso R. Sobukwe).

Mr. Venterhalter.

IN THE COURT OF THE MAGISTRATE FOR THE REGIONAL DIVISION OF THE SOUTH TRANSVAAL HOLDEN AT VEREENIGING.

In the matter of:

REGINA

versus

JOHANNES MONYAKE & OTHERS.

NOTICE OF EXCEPTION AND APPLICATION TO QUASH.

PART A.

BE PLEASED TO TAKE NOTICE that at the trial of the above matter, the accused will except to the main charge and will in the alternative apply to Court to quash the main charge on one or more or all of the following grounds:-

(1) The joinder of the accused in the main charge is irregular, improper and contrary to law and is calculated to prejudice and embarrass the accused in the conduct of their defence.

(2) The main charge does not comply with the provisions of Section 315 of Act No. 56 of 1955 and is calculated to prejudice and embarrass the accused in the conduct of their defence, in that it does not set forth the offence charged in such manner and with such particulars as are reasonably sufficient to inform the accused of the nature of the charge against them; more especially in that the main charge does not contain any of the particulars requested by the accused in their

- Request -

Request for Particulars dated 17th June, 1960, and the prosecutor has declined to furnish any of such particulars.

(3) Paragraphs 6, 9, 10, 11 and 16 or one or more of them, do not disclose the offence of public violence.

(4) The repeated use of the expression "and/or" in the main charge is burdensome and oppressive and is calculated to prejudice or embarrass the accused in the conduct of their defence.

(5) (a) There are more counts than one in the main charge and such counts are not numbered consecutively;

(b) In the premises the main charge is defective on the face of it, in that it does not comply with the provisions of Section 312 (2) of Act No. 56 of 1955 and is calculated to prejudice or embarrass the accused in the conduct of their defence.

PART B.

BE PLEASED TO TAKE NOTICE FURTHER that

/the

accused will also except to the alternative charges and will in the alternative apply to Court to quash them on one or more or all of the following grounds:-

(1) The joinder of the accused in each alternative charges is irregular, improper and contrary to law and calculated to prejudice and embarrass the accused in the conduct of their defence.

(2) The alternative charges do not comply with the provisions of Section 315 of Act No. 56 of 1955 and are calculated to prejudice and embarrass the accused in the conduct of their defence, in that they do not set forth the offences charged in such manner and with such particulars as are reasonably sufficient to inform the accused of the nature of the charge against them.

(3) More particularly the alternative charges are bad in law calculated to prejudice and embarrass the accused in the conduct of their defence in that;

(a) the prosecutor has refused to furnish the particulars requested in sub-paragraphs ~~(c) and~~ (d) of paragraph 19 of the Request for Further Particulars dated 17th. June, 1960;

(b) the prosecutor's reply to the question asked in sub-paragraph (f) of paragraph

19 of the said Request is embarrassing and inconsistent with the paragraph in the charge sheet beginning "IN THAT WHEREAS";

(c) the First Alternative Charge read with paragraph 8 to 14 inclusive of the Further Particulars thereto does not disclose the offence charged or any offence, or alternatively is contradictory, embarrassing and bad in law;

(d) the Second and Third Alternative Charges read with paragraph 16 of the Further Particulars thereto do not disclose the offences charged or any offence, or alternatively are contradictory, embarrassing and bad in law;

(e) paragraph 17, read with paragraphs 15 and 7 of the Further Particulars is embarrassing and inconsistent with the paragraph in the charge sheet beginning "IN THAT WHEREAS";

(f) the Fourth Alternative Charge read with paragraphs 18, 19, 20 and 22 of the Further Particulars thereto is contradictory, embarrassing and bad in law in that the particulars given contradict the allegation in the charge sheet that "the said accused" committed the offences alleged.

(4) The repeated use of the expression "and/or" in the alternative charges is burdensome and oppresive and is calculated to prejudice or embarrass the accused in the conduct of their defence.

(5) (a) There are more counts than one in each alternative charge and such counts are not numbered consecutively;

(b) In the premises each alternative charge is defective on the face of it, in that it does not comply with the provisions of Section 312 (2) of Act No. 56 of 1955, and is calculated to prejudice or embarrass the accused in the conduct of their defence.

DATED at JOHANNESBURG this 12th. day of August 1960

.....

of ROUTLEDGE, DOUGLAS WILSON, AURET & WIMBLE,
St. Andrew's Building,
39 Rissik Street,
JOHANNESBURG.

TO: THE CLERK OF THE COURT;

AND TO: THE PUBLIC PROSECUTOR :
REGIONAL DIVISION OF THE SOUTH TRANSVAAL.

Received copy hereof this day of AUGUST, 1960.

P. Unrepresented-
S.S.&S.-S. Nos 2, & 30-
Remainder - Mr Anderson

I. SMULLEN,
Posteas 38
VEREENIGING.

P. 1. JOHANNES MONYAKE.
Native male ..... years. S.A. Born.

(*) 2. THADDEA NTOAMPE,
Native male ..... years. S.A. Born. £50 Bail

P. 3. NYAKANE TSOLO,
Native male ..... years. S.A. Born.

P. 4. THOMAS MORE,
Native male ..... years. S.A. Born.

5. RICHARD MOKWA,
Native male ..... years. S.A. Born.

6. JOHANNES HLONGWANE,
Native male..... years. S.A. Born.

7. ALBERT MATLALA,
Native male ..... years. S.A. Born. X

P. 8. EMMANUEL TEKETSI,
Native male ..... years. S.A. Born.

9. DANIEL SITHOLE,
Native male ..... years. S.A. Born.

10. ALFRED MVULANE,
Native male ..... years. S.A. Born.

11. GEMUEL MOHALE,
Native male ..... years. S.A. Born.

12. JOSEPH MOKWENA,
Native male ..... years. S.A. Born.

13. LEEUW MOKANYANE,
Native male ..... years. S.A. Born.

14. PIET TSHABALALA,
Native male ..... years. S.A. Born.

15. JOSEPH KUTOANE,
Native male ..... years. S.A. Born.

16. DAVID SEFUME,
Native male ..... years. S.A. Born.

17. ABRAHAM GAOLE,
Native male ..... years. S.A. Born.

18. GEELBOOI MOFOKENG,
Native male ..... years. S.A. Born.

19. ADAM SAKWANE,
Native male ..... years. S.A. Born.

20. SHADRACK SECHABELA,
Native male ..... years. S.A. Born.

21. SAMUEL MOLOI,
Native male ..... years. S.A. Born.

22. ISAAC MOTAUNG,
Native male. ..... years. S.A. Born.

23. PAULOS MKWANAZI,
Native male ..... years. S.A. Born.

24. AZAEL KUTOANE,
Native male ..... years. S.A. Born.

25. MOSES SHABANGU,
Native male ..... years. S.A. Born.

26. DANIEL MOTHIBELI,
Native male ..... years. S.A. Born.

27. JOHANNES SERETHO,
Native male ..... years. S.A. Born.

28. ESIAN SERETO,
Native male ..... years. S.A. Born.

29. LYDIA TELETSANE,
Native female ..... years. S.A. Born.

30. ANNA LETHEGE,
Native female ..... years. S.A. Born.

31. THOMAS MSIMANGA,
Native male ..... years. S.A. Born.

32. SIMON MAKUBO,
Native male ..... years. S.A. Born.

33. ISHMAEL MGATI,
Native male ..... years. S.A. Born.

34. GEORGE YONA,
Native male ..... years. S.A. Born.

35. JOSEPH MAKUBA,
Native male ..... years. S.A. Born.

36. PETER THABANE,
Native male ..... years. S.A. Born.

37. ELLIOT KUBEKA,
Native male ..... years. S.A. Born.

38. STEFAANS LEPEE,
Native male ..... years. S.A. Born. (39)

39. DAVID RAMODIKE,
Native male ..... years. S.A. Born.

40. SAMUEL POOLO,
Native male ..... years. S.A. Born. (44)

41. SIMON MHLAMBI,
Native male ..... years. S.A. Born. (45)

42. ISAAC MOSESI,
Native male ..... years. S.A. Born. (49)

43. EDWARD MOLOTO,
Native male. ..... years. S.A. Born. (50)

44. PETER MOTHIBELI,
Native male ..... years. S.A. Born. (53)

45. MICHAEL LESAONA,
Native male ..... years. S.A. Born. (54) Mr Anderson also acting for Bond.

46. MATTHEWS MASHIXA,
Native male ..... years. S.A. Born. (55)

47. STEPHEN LEHOBO,
Native male ..... years. S.A. Born. (56)

48. ELLIOT MKUMBENI,
Native male ..... years. S.A. Born. (57)

49. JOEL RABOROKO,
Native male ..... years. S.A. Born. (58)

50. MAKHOTHI SELOKO,
Native male ..... years. S.A. Born. (59)

51. PETRUS MOKELE,
Native male ..... years. S.A. Born. (60)

52. GEORGE QOTZWA,
Native male ..... years. S.A. Born. (61)

53. EUGENE MSUBANE, [Absent 21/9/60 w/Hon. order.]
Native male ..... years. S.A. Born. (62)

Mr Anderson Statement after action Paid his bail

54. SOLLY MOTSITSI,
Native male ..... years. S.A. Born. (63)

55. BENJAMIN MOTSO,
Native male ..... years. S.A. Born. (64)

56. ISMAEL MODISE,
Native male ..... years. S.A. Born. (65)

57. ABRAM MOFOKENG,
Native male ..... years. S.A. Born. (66)

58. PAULUS MALUKA,
Native male ..... years. S.A. Born. (67)

59. JOHN THLAPHANE,
Native male ..... years. S.A. Born. (68)

60. SEPHONIAH MCHAUPE,
Native male ..... years. S.A. Born. (69)

61. DAVID MABASO,
Native male ..... years. S.A. Born. (70)

62. DAVID KHOALI,
Native male ..... years. S.A. Born. (71)

63. LECHAEL MUSIBI,
Native male ..... years. S.A. Born. (72)

64. SOLOMON LESITO,
Native male ..... years. S.A. Born. (73)

65. HOPHNY MARAHE,
Native male ..... years. S.A. Born. (74)

66. SAMUEL MATLASI,
Native male ..... years. S.A. Born. (75)

67. JOSEPH QINA,
Native male ..... years. S.A. Born. (76)

68. PHILLIP NTIMYANE,
Native male ..... years. S.A. Born. (77)

69. EMILY SEPORANKANA,
Native female ..... years. S.A. Born. (78)

70. SELLO RALEBAKENG, Released. Bail to be applied.
Native male ..... years. S.A. Born. (79) Mr Andrew pd. £10 Bail Signed in Trust.

71. SHADRACK MOSALA,
Native male ..... years. S.A. Born. (80)

72. PHINEAS MOKHESENE,
Native male ..... years. S.A. Born. (81)

73. MICHAEL LETSOENYO,
Native male ..... years. S.A. Born. (82)

74. MOSES MOOI,
Native male ..... years. S.A. Born. (83)

~~75.~~
~~Native ..... years. S.A. Born.~~
(Clerk of Court called the accused)

75 Paulus Molefo
76 Peter Molefi.

The numbers in brackets after the accused indicate his number as shown on the district Court charge sheet. You will appreciate that I cannot keep the same numbers as charges have been withdrawn against a number of the accused.

WITNESSES MAY GET SUSPICIOUS, JUDGE AGREES

Arrested after Sharpeville evidence, despite indemnity

AN ADVOCATE said at the Sharpeville inquiry today that a Native schoolteacher who had given evidence before the commission at the Baragwanath Hospital last week was arrested after being discharged from the hospital.

He said this might cause suspicion to arise in the minds of witnesses at the inquiry that they might be arrested on the strength of evidence given there, in spite of the indemnity against prosecution given by the commissioner.

The advocate, Mr. S. Kentridge, said it appeared that the arrest of Mr. Lechael Musibi was based on an identification parade.

"His picture appeared in several newspapers, but I presume it is for another court to decide whether the identification parade was a valid one," he added.

Mr. P. S. Claassen, Q.C. (Attorney-General of the Free State) said it was made clear to witnesses that the commission could not protect them against prosecution when the evidence had been procured from a source other than their own evidence at the inquiry.

All the wounded were regarded as suspects, but naturally the police had to wait for their discharge from hospital before they could be screened.

In the case of this particular witness, he was released provided he attended an identification parade. At this he was identified by certain people. His subsequent arrest had nothing to do with the evidence he gave before the commission.

WORST ASPECT

Mr. Kentridge: My learned friend has put his finger on the really scandalous aspect in this matter—that all the wounded, those who got in the way of police bullets, are regarded as suspects. If it had been the case with those who fired one could understand it.

He asked the commissioner, Mr. Justice Wessels, whether he would explain to witnesses that anything done to them after appearing before the commission should not be ascribed to their evidence.

Mr. Justice Wessels said the arrest might have the effect complained of by Mr. Kentridge on witnesses, but there was nothing they could do about it.

He would like to believe, and at present did believe, that no one was being arrested because of his evidence at this inquiry.

FREE OF SNAGS

Mr. Justice Wessels said the commission had been remarkably free from difficulties—much more so than he expected would be the case. He ascribed this largely to the co-operation of the men concerned in the inquiry.

When the first witness of the day took the stand, the judge said: "If something happened to you after you have given evidence here, it would not be because you gave evidence here, but because the authorities have perhaps other evidence. I tell you this because other people who had given evidence here were detained and, perhaps, thought it was due to the fact that they gave evidence before me."

(Proceeding)

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Zoltan Szekely, M
Koromzay—the H

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REQUEST FOR FURTHER PARTICULARS TO CHARGE.

MAIN CHARGE:

1) As Paragraph 1 to 17 inclusive:

(a) With reference to the expression "and/or" which appears at the end of paragraphs 1 to 16 inclusive -

(i) Is it intended to allege that all the accused committed every act referred to in paragraphs 1 to 17 inclusive ~~or~~ and alternatively that all the accused committed the acts referred to in one or other of the said paragraphs, or

(ii) Is it intended to allege that some of the accused committed the acts referred to in one or more but not all of the said paragraphs and that others of the accused committed the acts referred to in others of the said paragraphs?

(iii) If the answers to sub-paragraph (i) and (ii) above are in the negative, what precisely is the expression "and or" intended to convey?

(iv) / ...

(iv) If the answer to sub-paragraph (1) above is in the affirmative, full particulars are required indicating precisely when, where and by whom each of the said acts is alleged in the alternative to have been committed.

(v) If the answer to sub-paragraph (ii) is in the affirmative, full particulars are required indicating precisely when, where and by whom each of the said acts is alleged to have been committed.

2. Ad Paragraph (1)

(a) Is it intended to allege that the accused marched with two or more distinct crowds?

(b) If so, which of the accused marched with each such crowd?

X (c) Upon what date(s) did each accused so march separately

(d) (c) What weapons or instruments did each accused carry or brandish?

3. AD Paragraph (2):

(a) The Prosecutor is requested to state, with regard to each of the named complainants and each of the "other persons" separately, which of the accused are alleged to have assaulted such complainants or other persons.

(b) What instrument or instruments did each accused use?

(c) What wounds, injuries, bruises or other hurts did each complainant or other persons sustain?

(d) Upon what date exactly did each such accused assault each complainant or other person

4. Ad Paragraph (3):

(a) What threats were uttered to each of the named complainants and to each of the "other persons"?

(b) / ...

(b) By which of the accused was each such threat uttered?

(c) The word "thereby" is not understood. Is it intended to allege that the complainants and other persons suffered injuries and hurts as a result of the threats employed by the accused or through some other instrumentality? If through some other instrumentality, the Prosecutor is requested to give precise particulars thereof.

(d) In any event, the Prosecutor is requested to state which of the accused caused hurts and injuries to each of the named complainants and other persons.

(e) repeat 3(c)

(e) upon what date exactly did each such accused (i) commit an assault (ii) threaten an assault

5. Ad Paragraph (4):

(a) The Prosecutor is requested to state, with regard to each of the named complainants and each of the "other persons" separately, which of the accused are alleged to have assaulted such complainants or other persons.

(b) What instrument or instruments did each accused use?

(c) What wounds, injuries, bruises or other hurts did each complainant or other persons sustain?

(a) repeat 3(d).

6. Ad Paragraph (5):

(a) What property of each of the named complainants and of each of the "other persons" was damaged and what was the precise nature of such damage in each case?

(b) / ...

(b) What property of each of the named complainants was destroyed?

(c) Which of the accused are alleged to have damaged or destroyed each such article of property?

(f) what exactly was each of the named persons said to have done?

(d) What instrument did each accused use?

(e). When what date exactly did each such accused (i) damage as alleged (ii). destroy as alleged

8. 9. **Ad Paragraph (8):**

(a) What threats were uttered to each of the named complainants and to each of the "other persons"?

(a) what exactly was said as alleged by each accused

(b) By which of the accused was each threat uttered?

(c) which of the said persons were referred to as alleged

9 10. **Ad Paragraph (9):**

(a) What words were uttered by each accused?

(d) by which of the accused was each person referred to as alleged

(e) upon what date exactly did each accused

10 11. **Ad Paragraph (10):**

(a) What telephone installations, other than telephone cables were broken or damaged?

(b) How many separate installations were broken or damaged?

(c) Which of the accused broke or damaged each such installation?

(i) the person as alleged

(ii) refer to as alleged?

(d) upon what date exactly did each accused break or damage as alleged?

11 12. **Ad Paragraph(11):**

(a) What duties or functions were the members of the South African Police Force executing or performing?

(b) / ...

(b) What words were used by each accused? The Prosecutor is requested to tabulate separately those words which are relied on as stating:-

(i) taunting, jeering and swearing;

(ii) threats or suggestions of the use of violence.

(c) In what manner did each accused adopt a threatening or hostile attitude?

(d) Who called upon the accused to disperse?

(e) From what act did the accused intend to compel the members of the South African Police Force to abstain?

(f) upon what date exactly did each of the accused perform the acts alleged

(g) the phrase after "functions" where this occurs for the second time is not understood in relation to the preceding sentence. The Prosecutor is asked to set this out clearly

12 13. **Ad Paragraph (12):**

(a) Which of the accused broke and damaged each article of property referred to in this paragraph?

(b) What instrument did each accused use?

(c) upon what date exactly did each of the accused perform the acts alleged?

13 14. **Ad Paragraph (13):**

(a) Is this paragraph intended to allege a single act of setting fire or more than one such act?

(b) Which of the accused are alleged to have committed the said act or each such act if there was more than one?

(c) upon what date exactly did each of the accused perform the acts alleged?

15/ ...

14 15. **Ad Paragraph (14):**

(a) What words were uttered by each accused? The Prosecutor is requested to tabulate separately those words which are relied on as stating :-

(i) taunts, curses, villifications, insults, foul abuse and imprecations;

(ii) threats.

(b) How many vehicles and persons were blockaded, obstructed, hindered, interfered with and disturbed?

(c) In what manner was each such person and vehicle blockaded, obstructed, hindered, interfered with and disturbed?

(d) Which of the accused are alleged to have committed each act referred to in this paragraph?

(e) upon what date precisely did each of the accused perform the acts alleged?

15 ~~16~~. **Ad Paragraph (15):**

(a) Which of the accused are alleged to have cut the said fence?

(b) Which of the accused are alleged to have surged, strained, pressed pushed and kicked against the said fence?

(c) upon what date precisely and at what time exactly did each of the accused perform the acts alleged?

16 ~~17~~. **Ad Paragraph (16):**

(a) What instruments did each accused wave and brandish?

(b) What is meant by the expression "feint with"? Which of the accused did this and with what instrument?

(c) / ...

(c) What gestures did each accused make and what signs did each accused give?

(d) What words did each accused use?

17
18. (e) upon what date exactly and at what time exactly did each of the named persons the acts alleged?

Ad Paragraph (17):

(a) What missiles or instruments were thrown by each accused?

(b) Which of the accused discharged firearms?

(c) What wounds, injuries, bruises or other hurts were sustained by each of the named complainants?

(d) Is it intended to allege that any of the said wounds, injuries or other hurts were sustained as a result of the discharge of firearms? If so, by whom were such injuries sustained?

(e) upon what date exactly and at what time exactly did each of the named persons the acts alleged?

ALTERNATIVE CHARGES:

18
19.

Ad Paragraph beginning "in that whereas":

(a) The expression "an Organisation known as the AFRICAN NATIONAL CONGRESS and/or PAN AFRICANIST CONGRESS" is not understood. Is it intended to mean that there was in existence one Organisation known by either or both of these names or that there were two separate Organisations?

(b) Is it intended to allege that each accused entered into an agreement, expressed or implied, with each of the other accused and

with other / ...

with other persons who were members of the Organisation or Organisations named?

(c) If so, when, where and how was each such agreement concluded by each accused :-

(i) With each of the other accused?

(ii) With the persons who were members of the organisation or organisations named?

(d) If the existence of any such agreement is implied from the conduct of the accused, full particulars of such conduct are required.

(e) If no such agreement is alleged, what is meant by the allegation that the accused were acting in concert and in furtherance of a common purpose with the said persons?

(f) Who were the persons referred to who were members of the Organisation or Organisations named?

20. Ad Paragraph headed "FIRSTLY" :

(a) On what date and at what place did each accused address a gathering of Natives?

(b) What words were used by each accused on each occasion?

(c) On what date and at what place did each accused :-

(i) / ...

(i) Print documents or cause them to be printed?

(ii) Distribute documents, assist in the distribution or circulation thereof or cause them to be distributed or circulated?

(d) Whenever it is alleged that the accused caused documents to be printed, distributed or circulated, the Prosecutor is requested to state by whom the accused caused such acts to be done.

(e) The Prosecutor is requested to set forth the contents of the said documents or as many of them as he relies on.

(f) With reference to each address to a gathering of Natives and each documents which he relies on the Prosecutor is requested to state which of the offences created by Sub-Section (a)(i) or (a)(ii) and (g) of Section 15(1) of Act 67 of 1952 was to be committed by the hearers or readers of such address or document.

? (g) When, where and by whom was the alleged action conducted?

20

21. Ad Paragraphs headed "SECONDLY" and "THIRDLY":
The same particulars are requested as have been requested to the paragraph headed "FIRSTLY".

22. 21 Ad Paragraph headed "FOURTHLY":

(a) When, where and by whom was the alleged campaign conducted?

(b) / ...

(b) Is it alleged that all the accused were not in possession of reference books during the whole of the period 1st September 1959 to 24th March 1960?

(c) If not, on what date or during what period was each accused not in possession of a reference book?

(d) On what date and at what place did each accused fail or refuse to produce a reference book on demand by an authorised officer?

(e) Who was the authorised officer who demanded such production from each accused?

(f) On what date and at what place did each accused :-
(i) deface;
(ii) destroy;
(iii) mutilate
reference books?

(g) How many reference books did each accused
(i) Deface;
(ii) destroy
(iii) mutilate
and to whom had each such reference book been issued?

(h) In what manner were such reference books
(i) defaced;
(ii) destroyed
(iii) mutilated?

REGINA

vs.

PAULOS MAKWANAZI:
DANIEL MOTHIBEDI:
PETRUS MOKELE
THOMAS MAIMANGA:
EUGENE SOBANI:
GEORGE YONA:
ELLIOT KUBEKA:
SIMON MHLAMBI:
ESIAN SERETO:
SHADRICK MOSALA:
AZAEL KUTOANE:
MATHEWS MOSHIYA:
GEORGE QUTWYA:
SIMON MAKUBO:
SOLLY MOTSITSE:
JOSEPH MAKUBA:
SAMUEL POOLO:
MICHAEL LESOANE:
STEPHEN LEHOBO:
MOSES SHANGU
ELIOT MOHKOBENI
JOHANNES SERETLO
ISHMAIL NGATI
BENJAMIN MOROO
PETER THABANE
ABRAHAM MOFOKENG
LACHAEL MUSIBI
PAULUS MALUKA

ACCUSED.

NOTICE OF EXCEPTION AND APPLICATION TO QUASH

PART A.

BE PLEASED TO TAKE NOTICE that at the trial of the above matther, the accused will except to the main charge and will in the alternative apply to Court to quash the main charge on one or more or all of the following grounds:-

1) The joinder of the accused in the main charge is irregular, improper and contrary to law and is calculated to prejudice and embarrass the accused in the conduct of their defence.

2) The main charge does not comply with the provisions of Section 315 of Act No. 56 of 1955 and is calculated to prejudice and embarrass the accused in the conduct of their defence, in that it does not set forth the offence charged in such manner and with such particulars as are reasonably sufficient to inform the accused of

the / ...

the nature of the charge against them; more especially in that the main charge does not contain any of the particulars requested by the accused in their Request for Particulars dated 17th June, 1960.

3) Paragraphs 6, 9, 10, 11 and 16 or one or more of them, do not disclose the offence of public violence.

4) The repeated use of the expression "and/or" in the main charge is burdensome and oppressive and is calculated to prejudice or embarrass the accused in the conduct of their defence.

5) The main charge is bad for duplicity.

6) (a) There are more counts than one in the main charge and such counts are not numbered consecutively;

(b) In the premises the main charge is defective on the face of it, in that it does not comply with the provisions of Section 312(2) of Act No. 56 of 1955 and is calculated to prejudice or embarrass the accused in the conduct of their defence.

PART B.

BE PLEASED TO TAKE NOTICE FURTHER that the accused will also except to the alternative charges and will in the alternative apply to Court to quash them on one or more or all of the following grounds:-

1) / ...

1) The alternative charges do not comply with the provisions of Section 315 of Act No. 56 of 1955 and are calculated to prejudice and embarrass the accused in the conduct of their defence, in that they do not set forth the offences charged in such manner and with such particulars as are reasonably sufficient to inform the accused of the nature of the charge against them; more especially, in that the alternative charges do not contain any of the particulars requested by the accused in their Request for Particulars dated 17th June, 1960.

2) The repeated use of the expression "and/or" in the alternative charges is burdensome and oppressive and is calculated to prejudice or embarrass the accused in the conduct of their defence.

3) The alternative charges are bad for duplicity.

4) (a) There are more counts than one in each alternative charge and such counts are not numbered consecutively;

(b) In the premises each alternative charge is defective on the face of it, in that it does not comply with the provisions of Section 312(2) of Act No. 56 of 1955, and is calculated to prejudice or embarrass the accused in the conduct of their defence.

DATED / ...

DATED at JOHANNESBURG, this 18th day of JULY, 1966.

of ROUTLEDGE, DOUGLAS WILSON,
AURET & WIMBLE,
St. Andrew's Building,
39 Rissik Street,
JOHANNESBURG.

TO:

17/6/60

REGINA

vs.

23 PAULOS MAKWANAZI; 24 AZAEL KUTOANE; 25 MOSES SHANGU; 26 DANIEL MOTHIBEDI
46 MATHEWS MOSHOEA; 48 ELIOT MOHLOBENI; 47 PETRUS MOKELE; 52 GEORGE QUTEYA
27 JOHANNES SERETLO; THOMAS MATWANGA; SIMON MAKOBO; ISHMAIL NCATI
(EUGENE SOBEN(?)) SOGO MOSEBITSE; BENJAMIN MOROO; GEORGE YONA
JOSEPH MAKOKA; PETER THEMBA; ELLIOT KUBEKA; SAMUEL POOLO
ABRAHAM MOFOKENG; SIMON MAGAHOI; MICHAEL LESOANE; LACHAEL MUSIBI
ESAIA SERETO; STEPHEN LEHOHO; PAULUS MAKUKA; SHADRICK MOSALA

ACCUSED.

REQUEST FOR FURTHER PARTICULARS TO CHARGE OF PUBLIC VIOLENCE AND OTHER CHARGES AGAINST THE ABOVE-NAMED ACCUSED.

MAIN CHARGE:

1) Ad Paragraph 1 to 17 inclusive:

(a) With reference to the expression "and/or" which appears at the end of paragraphs 1 to 16 inclusive :-

(i) Is it intended to allege that all the accused committed every act referred to in paragraphs 1 to 17 inclusive and alternatively that all the accused committed the acts referred to in one or other of the said paragraphs, or

(ii) Is it intended to allege that some of the accused committed the acts referred to in one or more but not all of the said paragraphs and that others of the accused committed the acts referred to in others of the said paragraphs?

(iii) If the answers to sub-paragraph (i) and (ii) above are in the negative, what precisely is the expression "and/or" intended to convey?

(iv) / ...

(iv) If the answer to sub-paragraph (i) above is in the affirmative, full particulars are required indicating precisely when, where and by whom each of the said acts is alleged in the alternative to have been committed.

(v) If the answer to sub-paragraph (ii) is in the affirmative, full particulars are required indicating precisely when, where and by whom each of the said acts is alleged to have been committed.

2. Ad Paragraph (1):

(a) Is it intended to allege that the accused marched with two or more distinct crowds?

(b) If so, which of the accused marched with each such crowd?

(c) Upon what date exactly did each accused so march?

(d) What weapons or instruments did each accused carry or brandish?

3. Ad Paragraph (2):

(a) The Prosecutor is requested to state, with regard to each of the named complainants and each of the "other persons" separately, which of the accused are alleged to have assaulted such complainants or other persons.

(b) What instrument or instruments did each accused use?

(c) / ...

(c) What wounds, injuries, bruises or other hurts did each complainant or other persons sustain?

(d) Upon what date exactly did each such accused assault such complainants or other persons?

4. Ad Paragraph (3):

(a) What threats were uttered to each of the named complainants and to each of the "other persons"?

(b) By which of the accused was each such threat uttered?

(c) The word "thereby" is not understood. Is it intended to allege that the complainants and other persons suffered injuries and hurts as a result of the threats employed by the accused or through some other instrumentality? If through some other instrumentality, the Prosecutor is requested to give precise particulars thereof.

(d) In any event, the Prosecutor is requested to state which of the accused caused hurts and injuries to each of the named complainants and other persons.

(e) Upon what date exactly did each such accused:-

(i) Assault as alleged?

(ii) Threaten as alleged?

(f) What wounds, injuries, bruises or other hurts did each complainant or other person sustain?

5. Ad Paragraph (4):

(a) The Prosecutor is requested to state, with regard to each of the named complainants, and each of the "other persons" separately, which of the accused are alleged to have assaulted such complainants or other persons.

(b) What instrument or instruments did each accused use?

(c) What wounds, injuries, bruises or other hurts did each complainant or other persons sustain?

(d) Upon what date exactly did each such accused assault such complainants or other persons?

6. Ad Paragraph (5):

(a) What property of each of the named complainants and of each of the "other persons" was damaged and what was the precise nature of such damage in each case?

(b) What property of each of the named complainants was destroyed?

(c) Which of the accused are alleged to have damaged or destroyed each such article of property?

(d) What instrument did each accused use?

(e) Upon what date exactly did each accused :-

(i) damage as alleged?

(ii) destroy as alleged?

(f) Where exactly was each of the house fittings and

window / ...

window panes situate?

7. Ad Paragraph (6):

(a) How many reference books did each of the accused:-

(i) deface?

(ii) destroy?

(iii) mutilate?

and to whom had each such reference book been issued?

(b) In what manner were such reference books:-

(i) defaced?

(ii) destroyed?

(iii) mutilated?

8. Ad Paragraph (7):

(a) What property of each of the named complainants was damaged, and what was the precise nature of such damage in each case?

(b) What property of each of the named complainants was destroyed?

(c) Which of the accused are alleged to have damaged or destroyed each such article of property?

(d) What instrument did each accused use?

(e) Upon what date exactly did each such accused:-

(i) damage as alleged?

(ii) destroy as alleged?

9. Ad Paragraph (8):

(a) What threats were uttered to each of the

named / ...

named complainants and to each of the "other persons"?

(b) By which of the accused was each threat uttered?

(c) Which of the said persons were restrained as alleged?

(d) By which of the accused was each such person restrained as alleged?

(e) Upon what date exactly did each such accused:-

(i) threaten as alleged?

(ii) restrain as alleged?

10. Ad Paragraph (9):

(a) What words were uttered by each accused?

(b) Upon what date exactly were the said words uttered by each accused?

11. Ad Paragraph (10):

(a) What telephone installations, other than telephone cables were broken or damaged?

(b) How many separate installations were broken or damaged?

(c) Which of the accused broke or damaged each such installation?

(d) Upon what date exactly did each such accused break or damage as alleged?

12. Ad Paragraph (11):

(a) / ...

(a) What duties or functions were the members of the South African Police Force executing or performing?

(b) What words were used by each accused? The Prosecutor is requested to tabulate separately those words which are relied on as stating:-

(i) taunting, jeering and swearing;

(ii) threats or suggestions of the use of violence.

(c) In what manner did each accused adopt a threatening or hostile attitude?

(d) Who called upon the accused to disperse?

(e) From what act did the accused intend to compel the members of the South African Police Force to abstain?

(f) Upon what date exactly did each of the accused perform the acts alleged?

(g) The phrase after "functions" where this occurs for the second time is not understood in relation to the preceding sentences. The Prosecutor is asked to set this out clearly.

13. Ad Paragraph (12):

(a) Which of the accused broke and damaged each article of property referred to in this paragraph?

(b) What instrument did each accused use?

(c) / ...

(c) Upon what date exactly did each of the accused perform the acts alleged?

14. Ad Paragraph (13):

(a) Is this paragraph intended to allege a single act of setting fire or more than one such act?

(b) Which of the accused are alleged to have committed the said act or each such act if there was more than one?

(c) Upon what date exactly did each of the accused perform the acts alleged?

15. Ad Paragraph (14):

(a) What words were uttered by each accused? The Prosecutor is requested to tabulate separately those words which are relied on as stating:-

(i) Taunts, curses, villifications, insults, foul abuse and imprecations;

(ii) threats.

(b) How many vehicles and persons were blockaded, obstructed, hindered, interefred with and disturbed?

(c) In what manner was each such person and vehicle blockaded, obstructed, hindered, interfered with and disturbed?

(d) / ...

(d) Which of the accused are alleged to have committed each act referred to in this paragraph?

(e) Upon what date exactly did each of the accused perform the acts alleged?

16. Ad Paragraph (15):

(a) Which of the accused are alleged to have cut the said fence?

(b) Which of the accused are alleged to have surged, strained, pressed, pushed and kicked against the said fence?

(c) Upon what dates exactly and at what time exactly did each of the accused perform the acts alleged?

17. Ad Paragraph (16):

(a) What instruments did each accused wave and brandish?

(b) What is meant by the expression "feint with"? Whichof the accused did this and with what instrument?

(c) What gestures did each accused make and what signs did each accused give?

(d) What words did each accused use?

(e) Upon what dates exactly and at what times exactly did each of the accused perform the acts alleged?

18. Ad Paragraph (17):

(a) What missiles or instruments were thrown by each accused?

(b) Which of the accused discharged firearms?

(c) What wounds, injuries, bruises or other hurts were sustained by each of the named complainants?

(d) Is it intended to allege that any of the said wounds, injuries or other hurts were sustained as a result of the discharge of firearms? If so, by whom were such injuries sustained?

(e) Upon what date exactly and at what times exactly did each of the accused perform the acts alleged?

ALTERNATIVE CHARGES:

19 Ad Paragraph beginning "IN THAT WHEREAS" :

(a) The expression "an organisation known as the AFRICAN NATIONAL CONGRESS and/or PAN AFRICANIST CONGRESS" is not understood. Is it intended to mean that there was in existence one organisation known by either or both of these names or that there were two separate organisations?

(b) Is it intended to allege that each accused entered into an agreement, expressed or implied, with each of the other accused and with other persons who were members of the

organisation or organisations named?

(c) If so, precisely when, where and how was each such agreement concluded by each accused:-

(i) with each of the other accused?

(ii) with the persons who were members of the organisation or organisations named?

(d) If the existence of any such agreement is implied from the conduct of the accused, full particulars of such conduct are required.

(e) If no such agreement is alleged, what is meant by the allegation that the accused were acting in concert and in furtherance of a common purpose with the said persons?

(f) Who were the persons referred to who were members of the organisation or organisations named?

20. Ad Paragraph headed "FIRSTLY" :

(a) On what date and at what place did each accused address a gathering of Natives?

(b) What words were used by each accused on each occasion?

(c) On what date and at what place did each accused:-

(i) print documents or cause them to be printed?

(ii) / ...

(ii) distribute documents, assist in the distribution or circulation thereof or cause them to be distributed or circulated?

(d) Whenever it is alleged that the accused caused documents to be printed, distributed or circulated, the Prosecutor is requested to state by whom the accused caused such acts to be done.

(e) The Prosecutor is requested to set forth the contents of the said documents or as many of them as he relies on.

(f) With reference to each address to a gathering of Natives and each document on which he relies, the Prosecutor is requested to state which of the offences created by Sub-section (a)(i) or (a)(ii) and (g) of Section 15(1) of Act 67 of 1952 was to be committed by the hearers or readers of such address or document.

21. Ad Paragraph headed "SECONDLY" and "THIRDLY" :

The same particulars are requested as have been requested to the paragraph headed "FIRSTLY".

22. Ad Paragraph headed "FOURTHLY" :

(a) When, where and by whom was the alleged campaign conducted?

(b) Is it alleged that all the accused were not

in possession of reference books during the whole period 1st September 1959 to 24th March, 1960?

(c) If not, on what date or during what period was each accused not in possession of a reference book?

(d) On what date and at what place did each accused fail or refuse to produce a reference book on demand by an authorised officer?

(e) Who was the authorised officer who demanded such production from each accused?

(f) On what date and at what place did each accused:-
(i) deface;
(ii) destroy;
(iii) mutilate
reference books?

(g) How many reference books did each accused:-
(i) deface;
(ii) destroy;
(iii) mutilate
and to whom had each such reference book been issued?

(h) In what manner were such reference books :-
(i) defaced?
(ii) destroyed?
(iii) mutilated?

C.G.E. Laudin,
Senior Public Prosecutor,
JOHANNESBURG.

Dear Sir,

HEADING.

We have received your letter of the 15th July in the above matter for which we thank you.

With regard to your statement that because the matter is now "in the hands of the Attorney-General", the Crown is "at this stage unable to comply with" the accuseds' request for Further Particulars and that the Crown will "apply to the court for a further remand on 21st July, 1960 until 12th September, 1960.", We think it advisable to place on record the history of this matter to date.

The main charge purports to relate to certain events which are alleged to have occurred at or near Sharpeville during or about 18th March, 1960 to 21st March, 1960; and the alternative charges purport to relate to events which are said to have occurred during or about from 1st September 1959 to 24th March, 1960.

Almost all of the accused for whom we are acting were injured by bullets fired at them from pistols, service guns rifles and/or Sten guns by members of the South African Police at or near the Sharpeville Police Station on the afternoon of 21st March, 1960. Almost all of them were taken to hospital as a result of the wounds which they thus sustained.

More than a dozen of the accused were arrested on 28th March, 1960 when they were patients at Baragwanath Hospital. Two of these persons, namely, Johannes Mokele and Charles Ramashali, who are minor children, were released by the

Police / ...

Police on 29th March, 1960. On 30th March, 1960, the Police arrested ten more of the persons who are now accused, also at the Baragwanath Hospital. By 8th April, 1960 a further six persons who were also patients in the Baragwanath Hospital as a result of having been shot by the Police, had been arrested by the Police and are now accused in the present case.

In the meantime, on 30th March, 1960, those of the accused who had by that date been arrested were brought before the court. Our Vereeniging Correspondents appeared on their behalf and applied for bail. This application was opposed by the Prosecutor and was refused by the court. The matter was postponed until 14th July, 1960, when it again came before the court. An application was once again made for bail on behalf of the accused. The application was once again opposed and was refused. The Prosecutor's application for a further remand until 20th April 1960 was opposed by Mr. Fourie who was at that stage appearing on behalf of the accused.

On 20th April, 1960, fifty-one of the accused appeared before the court on a charge of Public Violence. The Prosecutor indicated that bail had been fixed for five of the accused at £150 and for the other accused at £50 each. Mr. Fourie, who again appeared on behalf of the accused, applied for a reduction in bail and this application was refused. On the application of the Prosecutor, and despite the objection of Mr. Fourie to yet another remand, the case was again remanded until 3rd May, 1960.

On 3rd May, 1960 there was no formal appearance on behalf of the accused. The case was withdrawn against nine of the accused, but a further 15 persons were charged. The case was remanded this time until 23rd May, 1960.

As / ...

As a result of the hearing on 3rd May, we wrote to the Attorney General, Transvaal, drawing his attention to the fact that the case had been once again remanded to the 23rd of May and that the accused had not pleaded nor had any indictment charge been put to them. We asked the Attorney General to supply us with the indictment charge by return of post, as we were anxious that the matter should proceed. The Attorney General replied by letter dated 5th May, 1960 advising us that he would instruct the ~~Regional Court~~ Public Prosecutor to furnish us with a copy of the Charge-Sheet.

On 23rd May, 1960, Mr. Advocate J. Unterhalter was instructed by us to appear on behalf of our clients. The Prosecutor applied for yet another remand until 20th June, 1960. Mr. Unterhalter opposed this application and drew the attention of the court to the fact that if it were granted, most of the accused would have been detained for three months before being brought to trial. He also applied for a reduction of bail if the court decided to grant the Crown's application for a further remand. The Court did remand the matter until 26th June, 1960 and refused the application for a reduction in bail.

R./3/884/60.
Laudin.

19th July, 1960.

The Senior Public Prosecutor,
JOHANNESBURG.

Dear Sir,

re: THE QUEEN versus JOHANNES MONYAKE & 75 OTHERS - PUBLIC VIOLENCE - SHARPEVILLE
REQUEST FOR FURTHER PARTICULARS.

We have received your letter of the 15th July in the above matter for which we thank you.

In view of your statement that, because the matter is now "in the hands of the Attorney-General," the Crown is "at this stage unable to comply with" the request of our clients for Further Particulars and that the Crown will "apply to the court for a further remand on 21/7/60 until 12/9/60," we think it advisable to place on record a summary of the history of this matter to date.

The main charge purports to relate to certain events which are alleged to have occurred at or near Sharpeville during or about the period from 18th March, 1960 to 21st March 1960; and the alternative charges purport to relate to events which are said to have occurred during or about the period from 1st September 1959 to 24th March, 1960.

Almost all of the accused for whom we are acting were injured by bullets fired at them from service revolvers, service rifles and/or Sten guns by members of the South African Police at or near the Sharpeville Police Station on the afternoon of 21st March, 1960. Almost all of ther were taken to hospital as a result of the wounds which they thus sustained.

More than a dozen of the accused were arrested on 28th March, 1960 when they were patients at Baragwanath Hospital. Two of these persons, namely, Johannes Mokele and Charles Ramashali, who are minor children, were released by the Police on 29th March, 1960. On 30th March, 1960, the Police arrested ten more of the persons who are now accused, also at Baragwanath Hospital. By 8th April, 1960, a further six persons who were likewise patients in the Baragwanath Hospital as a result of having been shot by the Police, had been arrested by the Police and are now accused in the present case.

In the meantime, on 30th March, 1960, those of the accused who had by that date been arrested were brought before the Court. Mr. Fourie of Messrs. T.S. Wood & Co., our Vereeniging Correspondents, appeared on their behalf and applied for bail. This application was opposed by the prosecutor and was refused by the court. The matter was postponed until 14th April 1960, when it again came before the court. An application was once again made for bail on behalf of the accused. The application was once again opposed and was refused. The prosecutor's application for a

further/...

remand until 20th April 1960 was opposed by Mr. Fourie who was at that stage stillappearing on behalf of the accused.

On 20th April, 1960, fifty-one of the accused appeared before the court on a charge of public violence. The prosecutor indicated that bail had been fixed for five of the accused at £150 and for the other accused at £50 each. Mr. Fourie, who again appeared on behalf of the accused, applied for a reduction in bail and this application was refused. On the application of the Prosecutor, and despite the objection of Mr. Fourie to yet another remand, the case was again postponed until 3rd May, 1960.

On 3rd May, 1960, there was no formal appearance on behalf of the accused. The case was withdrawn against nine of the accused, but a further 15 persons were charged. The case was remanded until 23rd May, 1960.

As a result of the hearing on 3rd May, we wrote to the Attorney-General of the Transvaal, drawing his attention to the fact that the case had been remanded to 23rd May; that the accused had not pleaded; and that no indictment had been put to the accused. We asked the Attorney-General to supply us with the indictmnnt by return of post, as we were anxious that the matter should proceed just as soon as possible. The Attorney-General replied by letter dated 5th May, 1960, advising us that the Senior Public Prosecutor at Johannesburg would instruct the Regional Court Public Prosecutor to furnish us with a copy of the Charge-Sheet.

On 23rd May, 1960, Mr. Advocate J. Unterhalter was instructed by us to appear on behalf of our clients. The prosecutor applied for yet another remand until 20th June, 1960. Mr. Unterhalter opposed this application and drew the attention of the court to the fact that if it were granted, most of the accused would have been detained for three months before being brought to trial. He also applied for a reduction of bail if the court decided to grant the Crown's application for a further remand. The court did remand the matter until the 20th June, 1960 and refused the application for a reduction of bail. Mr. Unterhalter drew the attention of the court to a promise which had been made by the Senior Public Prosecutor in a letter that details of the charge would be furnished by 15th May, 1960. The presiding Magistrate directed that the Attorney-General's attention be drawn to this matter and that he be requested to deliver the Charge-Sheet within seven days. The prosecutor informed the court that the charge had already been drawn and was at that moment being copied, and that it would be available within eight days.

On 31st May, 1960, the charge was received by us. On 17th June, 1960 a Request for Further Particulars to the Charge was lofged with the Senior Public Prosecutor.

On 20th June, 1960, the matter again came before the court. The Crown had not yet supplied the Further Particulars requested and applied for a postponement to 21st July, 1960. Mr. Unterhalter, who appeared on behalf of the accused, did not oppose the Crown's application for this postponement, in view of the fact that the Request for Particulars had been served on the Crown only three days

before/..

before and also of the fact that the vehicle in which the accused were being conveyed from prison to court had been involved in an accident that morning with the result that several of the accused were injured and had to be removed to hospital. Mr. Unterhalter did, however, request the court to place the Crown on terms to supply the Further Particulars requested by not later than 7th July, 1960. The court was not at that stage prepared to place the Crown on terms in this regard.

Our Mr. Anderson was under the impression that you would be able to supply the Particulars by the 7th July, 1960. He telephoned Mr. Laudin, the prosecutor, in this connection on 5th July 1960 and wrote a letter on the following day in which he recalled that Mr. Laudin had indicated that he might be able to supply the particulars by the 7th July and stated that we should be grateful to receive them by not later than that date. On 8th July, 1960, a reply was received to this letter, in the last sentence of which it was stated that, "the Crown will, however, supply you with Particulars, or notify you of any other intention, timeously in the true and reasonable sense of the word."

To this letter we replied on the 13th July, 1960. We suggested that "during the three months which had elapsed since the arrest of the accused, any uncertainty which might have existed in your office as to which of the acts set out in your Charge-Sheet were to be laid against each of the accused must have been resolved. Consequently, although we do not suggest that you were committed to supply these Particulars by any specific date, it does appear to us that by now they must be available and that they ought to be supplied to us forthwith." With regard to the last sentence of Mr. Laudin's letter, in which he had referred to the possibility of the Crown having some "other intention", we asked whether the Crown was "considering a refusal of Further Particulars and contending that the Charge-Sheet as it stands is in a form which enables the accused to prepare for trial and to plead to it." We concluded by saying that "in view of the large number of alternatives to be found in the Charge-Sheet, it hardly seems possible that this is so, but if that is indeed your attitude there is no reason why we should not be informed immediately."

On 15th July, 1960, our Mr. Lang telephoned Mr. Laudin who informed Mr. Lang that he was unable to let Mr. Lang know that day the Crown's attitude to the Request for Particulars but that he hoped to be able to tell Mr. Lang something further over the telephone on the following morning. We placed this conversation on record in a letter written on the same day, in which we stated further that our clients were under no circumstances whatsoever prepared to agree to any further postponement when the matter came before the court on 21st July, 1960.

After that letter had been written, our Mr. Anderson had a further telephone conversation with Mr. Laudin in which Mr. Laudin stated that the Attorney-General had "the papers of the whole case" and was busy considering them. (This conversation was confirmed by Mr. Laudin in your letter under reply which is dated 15th July, 1960, but which was only received by us on 18th July, 1960).

The Senior Public Prosecutor. 19th July, 1960.

We wish to place on record that unti; 15th July,1960 it was never suggested that the reason for the repeated and protracted delays which have taken place in this matter was that the papers were being considered by the Attorney-General.

Between three and four months have elapsed since the accused were arrested by the Police. More than one month has elapsed since the Request for Further Particulars was served upon you. We cannot believe that the matter was not carefully investigated before the decision was taken to arrest and charge more than 70 people, some of whom were suffering from serious injuries inflicted upon them by the Police. Nor can we believe that the Senior Public Prosecutor would have drafted this charge-sheet unless he had had full and complete particulars of the acts alleged to have been done by each of the persons against whom these serious charges were laid. Nor, finally, can we believe that a prosecution of this magnitude and importance, relating as it does to the events at Sharpeville on 21st March, 1960, which have attracted attention not only throughout this country but also in many other parts of the world, can previously have escaped the personal attention and full consideration of the Attorney-General. In any event, the fact that "the matter is now in the hands of the Attorney-General" (as you state in your letter under reply) is no reason at all why the Further Particulars should not have been furnished or why the Crown should now make an application for a seventh remand of this case. Your letter gives no reason why commencement of this trial should now be delayed for a further period of nearly two months. We are quite unable to imagine any good reason why this should be done.

We hereby give you notice that any application for a postponement will be strenuously opposed and that we have briefed Senior Counsel to appear on Thursday, 21st July, 1960, to argue the exceptions and applications to quash of which you were notified on 18th July, 1960.

Yours faithfully,
ROUTLEDGE, DOUGLAS WILSON, AURET & WIMBLE.

23rd May, 1960.

Messrs. Routledge, Douglas, Wilson,
Auret & Wimble,
St. Andrews Building,
Rissik Street,
JOHANNESBURG.

ATTENTION MR. J. ANDERSON.

Dear Sirs,

RE : REG. vs. PAULUS MAKWANAZI & OTHERS.

In this matter I attended at the Vereeniging Magistrate's Court today when the Crown made application for the case to be postponed to June 20th. I opposed this application and addressed arguments to the Magistrate thereon, pointing out to him that the application, if granted, would mean that the Accused would have been detained for three months before being brought to trial. I also asked for a reduction in bail if the Magistrate decided to grant the Crown's application. The Court did grant the application for the postponement and refused my application to reduce the bail.

I informed the Court that the Accused were as yet without any details of the charge and handed in the correspondence between yourselves and the Attorney-General and the Senior Public Prosecutor, drawing attention particularly to the fact that details of the charge had been promised for the 15th May. After argument the Magistrate directed that the Attorney-General's attention be drawn to this matter and that he be requested to deliver the charge sheet within 7 days. The Crown informed the Court that the charge was already drawn and was at the moment being duplicated and would be available within 8 days.

One of the Accused, for whom I do not appear, informed the Court that the conditions in the Cinderella Gaol at Boksburg were working great hardship upon them, in particular in regard to the provision of blankets which did not protect them from the cold. The Accused for whom I appear associated themselves with these remarks and asked that

2/ something .....

something be done to assist them. The Magistrate had said that a visiting Magistrate inspected the Gaol each week and their complaints should be addressed to him; the spokesman replied that they had not seen any Magistrate during their whole period of detention to whom they could voice their complaints.

May I suggest that you communicate with the Secretary for Justice and inform him of these complaints and ask that a Magistrate visit the prison at once to hear what the Accused have to say?

Three requests were made to me by certain of the Accused. One was from Mathews Moshiya, for whom I appear as instructed by you. He states that he resides at Sharpeville Location No. S.572 and has a Post Office book which is in the possession of his mother at that address. He asks that it be brought to him at the Cinderella Gaol together with a withdrawal slip which he intends to sign in order to obtain the money for his bail. No doubt you will inform your correspondent regarding this matter.

The second request was from Iziah Seruto who resides at 6521 Sharpeville Location and asks that his mother be requested to arrange for his bail.

The third request was from Daniel Sitole who resides at 8676 Sharpeville Location and asks that a pair of trousers be brought to him.

Yours faithfully,

J. UNTERHALTER.

ARGUMENT ON MISJOINDER

1. The two main grounds of the Exception and Notice to Quash in relation to the main charge are that the joinder of all these accused in the main charge is irregular, improper and contrary to law and is calculated to prejudice and embarrass the accused in the conduct of their defence and that the main charge is wanting in the particularity which the law requires, more especially in that it does not contain the particulars contained in the Request dated 17th June, 1960.

2. I want now to deal more particularly with the failure of the Crown to make clear in the charge-sheet the various points which are raised in paragraph 1 of the Request for Further Particulars.

3. Before I deal in detail with paragraph 1, it is necessary to refer to the structure of the main charge. Some 70 persons are alleged to have committed public violence at or near Sharpeville in that, during a period of 4 days (from 18th March, to 21st March, 1960) they committed two categories of acts:-

(a) They assembled and gathered together a crowd of persons with a certain unlawful intention; and

(b) They made riots and affrays in four ways:

(i) By marching;

(ii) / ...

(ii) By threatening to damage, attempting to damage and actually damaging certain property;

(iii) By assaulting certain persons; and

(iv) By placing in fear divers persons.

4. The charge then proceeds to set out what are called particulars of these general allegations, in the form of 17 paragraphs in each of which it is alleged that "the said accused and divers others" committed various acts of different kinds.

(a) They gathered or assembled in a crowd of persons at and round the Sharpeville Police Station and committed certain unlawful acts there (para. 14). Paragraphs 15, 16 and 17 go on to allege certain specific unlawful acts which "the said accused and divers others" are said to have committed at the police station. They broke and damaged the fence (para. 15). They brandished, waved and feinted with instruments, made gestures, waved their arms, stamped their feet and gyrated their bodies, and yelled, screamed and uttered noises and taunts (para. 16). And they assaulted and injured certain named persons (para. 17).

(b) The particulars of the making of riots and of affrays are as follows:

(i) They marched with crowds through the

streets / ...

streets (para. 1);

(ii) They assaulted various persons (paras. 2, 3 and 4; and compare para. 17, which has been referred to above);

(iii) They put various persons in fear (paras. 3 and 8);

(iv) They damaged or threatened or attempted to damage the property of various persons (paras. 5, 7, 8, 10, 12 and 13; and compare para. 15 referred to in (a) above).

(c) Two paragraphs of the Particulars do not appear to fall squarely within either of the two main categories of unlawful acts which are alleged at the beginning of the charge.

(i) The accused burnt or tore divers reference books (para. 6). It does not appear whether they burnt or tore their own reference books or the reference books of other persons. Unless the latter is intended to be alleged, this allegation does not appear to fit into the framework of the charge.

(ii) They used opprobrious epithets or jeers or jibes to divers persons to the Prosecutor unknown in connection with the fact that the said persons had undertaken to work (para. 9). This

does / ...

does not fall under any of the allegations at the beginning of the charge in which are set out the various means whereby the accused are said to have made riots and affrays.

5. The present case differs from all the previous reported cases of public violence which we have consulted. The charge does not allege a single riotous assembly at one place at a specific time on a particular day. It alleges a very large number of riotous acts which are said to have been committed by a very large number of people at unstated places in an ill-defined area at unstated times during a period of 4 days and 4 nights. The Crown cannot have intended to allege that all the acts specified in paragraphs 1 - 17 of the charge-sheet were committed continuously by all the accused and other persons throughout a period of 4 days and 4 nights. The Crown cannot for example have intended to allege that the marching which is referred to in paragraph 1 continued for 4 days and 4 nights. The assaults referred to in paragraphs 2, 3 and 4 were presumably specific incidents of short duration. Again, it cannot have been the intention of the Crown to allege in paragraph 4 that each of the 70 accused, and divers other persons as well, assaulted Hoek, Pogrund, Sacks, Van Wyk, and Ferreira by striking them with stones and clenched fists, still less that the incident lasted for 4 days and 4 nights. What I have said applies

equally / ...

equally to the various allegations of damage to property. It seems clear that the Crown must have intended to allege a number of specific incidents, each one of which presumably involved only some of the accused.

6. A further factor which strongly supports this interpretation of the charge-sheet is that the main charge is not framed in the same way as the alternative charges. In the alternative charges it is alleged that the accused committed a variety of acts relating to the Pass Laws. They incited Natives not to produce their reference books, to deface or destroy their reference books, and so forth. It is specifically alleged that "at all places and times where it is alleged that the accused did or omitted to do any act, it is alleged that all the accused at all such times were acting together and in concert and in furtherance of a common purpose" (p. 8). It is very significant that the main charge contains no such allegation. That fortifies the view that the Crown does not intend to allege that all the accused committed all the acts referred to in paragraphs 1 - 17.

7. A further feature of the main charge is that paragraphs 1 - 17 inclusive are connected together by the conjunction "and/or". The Courts, both in England and in this country, have frequently criticized the use of this conjunction in legal documents which are intended or supposed to have a precise meaning. See for example Ex parte McDuling, 1944

O.P.D. 187. The important point in the present case is that this conjunction is capable of meaning "or" as well as "and". The specific acts which are alleged in paragraphs 1 - 17 to have been committed by the accused are therefore charged not merely cumulatively but also in the alternative; and presumably therefore the Crown will ask for a conviction if it is found that any one of those acts was in fact committed. I have already submitted that the Crown cannot have intended to allege that, for example, all the accused assaulted Hoek as alleged in paragraph 4. The fact that the Crown has had recourse to the "bastard conjunction" "and/or" very strongly suggests that the Crown did not intend to lay each one of the acts at the door of each one of the accused.

8. I have said sufficient to show that at the very least the accused are left in real doubt as to the scope and meaning of the main charge. Paragraph 1 of the Request for Further Particulars was carefully framed with a view to giving the Prosecutor an opportunity to eliminate this doubt. The answers to the first three questions are very simple and do not require a day's consideration on the part of the Attorney-General, let alone three months'. If the answer to question (i) is Yes it is not open to us to complain at this stage that there has been any misjoinder; although if that is a truthful answer to the question, it is apparent that the Crown will encounter a number of other serious difficulties in relation to the particularity

and / ...

and the proof of the allegations. If the answer to that question is No, the only other meaning which we are able to attribute to the charge is the meaning set forth in paragraph (ii); and that also is a very simple question for the Crown to answer. It may be, however, that there is some other possible meaning which the Crown intended to convey and which we have overlooked. For that reason paragraph 3 was inserted, so that the Crown might say exactly what it intended to allege. The difficulty, from the Crown's point of view, of giving an affirmative answer to the second question is not only that the Crown is in that event requested to answer the fifth question. There is a much more serious difficulty. If the true position is, as we believe it to be, that the Crown is in possession of evidence merely that some of the accused committed the acts referred to in some of the paragraphs in the charge-sheet and that others of the accused committed the acts referred to in others of those paragraphs, then there is no doubt that the charge-sheet is bad for misjoinder.

9. The rule was very clearly laid down as long ago as 1905 in the case of Chang Wing v. The King, 1905 T.S. 767. In that case there were three accused, who were charged in the same charge-sheet with contravening an ordinance which made it illegal to be in possession of opium. They separately occupied three different rooms, which happened to be in the same block of buildings. The opium found was of a different kind in each

room / ...

room, and might have - and probably did - come there under entirely distinct circumstances. The question arose whether it was permissible for the Crown to charge all three men in the same indictment. Innes, C.J. held that it was not permissible. He said this:-

> "In my opinion such course is not warranted by practice, and is wholly irregular and wrong. Two or more men may be joined in the same indictment in respect of a criminal charge arising out of the same transaction, or unconnected with the same set of facts; but they cannot be so joined for even the same class of offence, if it arises in each case out of different facts and forms a different transaction."

The same rule was recently re-affirmed by Ramsbottom, J. in David v. Van Niekerk, N.O., 1958 (3) S.A. 82 (T), at p. 90 C to the end of the page.

10. It is true that there is a special class of case in which some relaxation of the above rule is permitted, namely, the type of case where it is alleged that a number of accused persons have in concert and with a common purpose taken part in a course of criminal conduct which consists, not of an unbroken spell of uniform behaviour, but of a series of closely following similar acts. Such a case came before the Special Treason Court in Pretoria in the matter of Regina v. Adams &

Others, 1959 (1) S.A. 646. In that case it was alleged in the indictment that the 90 accused persons had taken part in a treasonable conspiracy during the period between 1st October, 1952, to 13th December, 1956. It was alleged in the indictment that the accused had acted in concert and with common purpose; but not all of the accused were alleged to have joined the conspiracy in October, 1952. Only some of the accused were said to have been in the conspiracy from the start, and others were alleged to have joined it from time to time during the succeeding four years. It was held that there had been no misjoinder of the accused in the indictment on the ground that -

> "When there is a series of acts done in pursuance of one criminal design, the law recognizes the practical necessity of allowing the Crown, with due regard to what is fair to the accused, to charge the series as a criminal course of conduct, that is, as a single crime."
> (See p. 666 G - p. 668 F 2.)

11. It is not open to the Crown in the present case to rely upon this principle, which applies only where it is alleged in the indictment that the accused committed a series of acts done in pursuance of one criminal design. In the present case, which differs in this fundamental respect from the Treason Case, there is no allegation in the main charge that the accused acted in concert

and / ...

and with common purpose. I might add, in parenthesis, that although in a certain type of case it might be held that an allegation of common purpose is implicit in the nature of the charge, that is not the position in the present case. As I have already said, the charge-sheet does not refer to a single riotous affray or assembly but on the contrary alleges a very large number of acts which on the face of them appear to have been separate and distinct incidents; and as I have already submitted, it is in the highest degree improbable that the Crown could have intended to allege that all these acts were committed by all the accused acting in combination or in concert or with common purpose.

12. For these reasons it is submitted that the main charge is bad for misjoinder and should therefore be set aside in terms of paragraph 1 of the Notice of Exception. Alternatively, by reason of the failure of the Prosecutor to answer the simple questions contained in paragraph 1 of the Request for Further Particulars, the main charge is calculated to prejudice and embarrass the accused in the conduct of their defence and should accordingly be quashed in terms of paragraph 2 of the Notice of Exception and Application to Quash.

Allegations will not be implied in a charge-sheet unless the implication is a necessary one. See R. v. Pretorius, 1950 (4) S.A. 269, at p. 271.

PARTICULARITY.

1). The analysis of the Charge Sheet has already shown that the main charge contains allegations of literally hundreds of individual acts of the most diverse nature. I have also pointed out that these acts could not possibly have been committed in concert by all the accused throughout the period of four days and four nights which is covered by the Charge sheet. In these circumstances the simple enquiry before the Court is whether the 70 accused persons have been told what the case against them is.

2). The requirements of the Law are stated in Section 315(1) of Act 56 of 1955 as follows:

There are numerous decided cases in which the provisions of this section have been elaborated, but the general principles can be stated quite shortly. It was said by Innes C.J., in Rex vs. Shapiro & Saltman, 1904 T.S. 355 at p. 360, that:

"It seems to me that there are two essentials in an Indictment: it should contain allegations which, if proved, would constitute the crime with which the accused is charged; and the particulars of the offence should be stated in such detail as to enable him to know the case that he has to meet."

This principle was re-stated by the Special Court in R. vs. Adams, 1959 (1) S.A. 646 at p. 656(F):

"It is a well-known principle in our law that an an accused person is entitled to such particulars as he properly requires for the purpose of preparing his case before he is called upon to plead and enter upon

his/...

his defence, and he is entitled to such particulars even if it entails a disclosure of Crown evidence."

3). It will be seen, therefore, that what the Crown must do in a Charge sheet is to tell each accused what case he has to meet and tell it to him in such detail and in such clear and unmistakable language, as to enable him to prepare his case even before he is called upon to plead. The essential requirement of clarity in an indictment or a Charge sheet was stressed by the Appellate Division in Rex. v. Alexander & Others, 1936 A.D., 445 at p. 457:

"What is the object of an indictment? Its real purpose is to inform the accused in clear and unmistakable language what the charge is or what the charges are which he has to meet. It must not be framed in such a way that an accused person has to guess or puzzle out by piecing sections of the indictment or portions of sections together what the real charge is which the Crown intends to lay against him."

4). The Charge sheet gives by way of particulars, a long list of acts alleged to have been committed by the accused and divers other persons, but it gives no indication whatsoever of which accused is said to have done what act. Indeed, by reason of the reference to divers other persons, it is not necessarily clear that any of the accused personally committed any of the acts referred to. I have already referred to the absence of any allegation of common purpose and to the impossibility of implying such an allegation in the Charge sheet. But whether or not common purpose is

alleged/...

alleged, it is still necessary to inform each accused of his own part in the alleged public violence. This follows from the general principles stated above. It is quite true that at the end of a case of public violence it may not be necessary for the Crown to have proved that each accused committed a particular act of violence. The Crown may obtain convictions of accused persons by showing merely that they were associated with others in the execution of a common purpose, the result of which was the commission in public of violent acts. See for example, R. v. Wilkens and Others, 1941 T.P.D., 276 at p. 289. Moreover, there may be cases where the scope, time place and nature of the alleged public violence is so limited that an accused person is sufficiently informed of the case against him by being merely told that he formed part of a riotous assembly or took part in a riotous affray at a well-defined place at a specified time. See for example R. v. Marthinus & Others, 1941 C.P.D., 319. But the present case, of course, is in a completely different category. No accused can have any conception of the real case against him unless he knows whether it is being alleged that he committed any particular act himself and if so, what act it was and when and where he committed it.

5). The difficulties inherent in facing a charge of public violence are such that the ordinary rules of criminal pleading should be strictly applied. In R. v. Salie & Others, 1938 T.P.D., 136 at p. 140. Schreiner J. said:

"Ordinarily where acts of violence have been committed the Crown has to bring home to the individual/...

individual the commission of a particular act, and the Court then investigates the circumstances in which that act is committed. Defences like self defence or provocation may be of great importance in deciding whether a particular accused person is guilty at all or what the degree of his guilt is. A general crime of the nature of public violence makes it vry difficult to ascertain the relative parts played by the different persons and to fix the degrees of guilt, if any, attaching to them. No doubt in certain cases it is proper to deal with the persons concerned in the mass, but this should not lightly be permitted to the Crown."

The need to supply accused with particulars of their individual participation in a crime of public violence is illustrated by the decision of Ramsbottom J. in Rex. v. Moilwanyana & Others (3) 1957 (4) S.A. 608 (T) at pp. 616-617. In that case a large number of accused were charged together with the crime of incitement to commit murder on a certain day. Particulars were asked for and in answer to the request the Crown referred the accused to the preparatory examination. Ramsbottom J. held that in that particular case that this manner of supplying particulats was justified, but it is clear from his judgment that the accused were entitled to particulars of their individual participation in the joint crime, notwithstanding the fact that the Crown was relying explicitly on the doctrine of common purpose. Thus the learned Judge said:

"He (the accused) is entitled to ask the Crown to specify, as part of the indictment, what act

he is alleged to have performed and thus to have committed a crime. But in certain cases it is proper to embody the preparatory examination in the indictment by way of further particulars."

"As appears from the argument it was quite possible for each of the persons against whom specified allegations were made in relation to one or other of the counts, to ascertain quite easily from the preparatory examination what that person is said to have done. It was contended that a reference to thepreparatory examination shows that only certain of the 23 persons who are now charged on this indictment are specifically referred to as performing one act or another....and that as far as the others are concerned, they obtained no information from the record. I am unable to accept that argument. The further particulars inform them that they are all held responsible because they were all socii criminis in the crimes which are alleged to have been committed, that they acted in concert and, therefore, all are responsible for the acts of the others. So that when it is alleged that accused No. 1 performed a certain act, accused No.2. to 25 will know and have been told that they are all being held responsible for that act."

6). The same principle was applied by the Special Court in R. v. Adams (supra). As will appear from the judgment, although the Court held that the accused were all properly joined in the indictment on the basis of common purpose, it required the Crown to inform each accused of the individual acts ascribed to each of them. See 1959 (1) S.A. P. 668 (H) to P. 669 (G).

7)...

7). Not only does the present Charge sheet not inform each accused of his participation, but it gives no particulars of times when and places where the various acts on which it relies were committed. It is obvious from a perusal of the Charge sheet that it is impossible for any of the accused to prepare his defence or instruct counsel adequately. This will be more clearly illustrated if the 17 paragraphs of particulars to the main charge are perused side by side with the request for further particulars served upon the Crown on the 17th June. It will be submitted that each question asked in that request was a necessary one and that in the absence of these particulars the Crown has failed to comply with the provisions of Section 315(1) of Act 56 of 1955. It is not proposed to deal with every point in this charge. A general perusal of the charge clearly reveals its want of proper particularity, but it may be convenient to give a number of illustrations of the more glaring omissions in the charge.

(a). Paragraph 1.

I have already suggested that the Crown cannot be alleging that the accused and others marched continuously for four days and four nights. Yet para.1. does not even give a date of the march of if, as may well be the case, there was more than one crowd and more than one march, it is surely beyond doubt that it was the prosecutor's duty to say so and to give proper dates. It may be of the greatest importance to an accused to know where each of these marches was alleged to have taken place, but no place is given. The paragraph refers simply to the streets and public places of

the aforesaid township which, as your Worship may well know, is a township inhabited by some 36,000 persons.

(b) Paragraph 2.

This paragraph, too, does not even give the place or date still less the time of day of each assault, although these particulars must be well-known to the prosecutor. As the charge stands the accused must prepare themselves for trial on the assumption that the Crown case is that more than 70 persons assaulted four named persons and divers other un-named persons continuously at an unspecified place for a period of 4 days and four nights. It is impossible to prepare adequately for a criminal defence on the strength of such assumptions. It is clear (and one may find illustrations in many decided cases such as, for example, R. v. Xybele and Others, 1958 (1) S.A. 157 (T)). It is not merely his participation, but the extent of his participation in the alleged public violence that is of the greatest concern to an accused person. If, to take an example, an accused could prove that in connection with all but one of these assaults he was elsewhere and had no part in them, it would clearly be of the greatest importance that he should be in a position to do so, and if necessary to call supporting evidence. But on this Charge sheet he can make no preparation to do so.

(c) Paragraphs 3 & 4:

The fact that paras. 3 and 4, like para. 2. deal

with/...

with alleged assaults, suggests at least that the assaults separately referred to in each of these three paragraphs took place at distinct places and times. It would surely have been a simple matter for the prosecutor to have made this clear and to have given the times and places.

(d). Paragraph 5.

Precisely the same criticisms apply to the allegation of damage to property in para. 5.

(e) Paragraph 6:

This paragraph is so vague as to be almost unintelligible. It is not even clear whether the accused are charged with destroying their own reference books.

(f). Paragraphs 7 and 8:

Here too, one sees further distinct allegations of damage or to threats of damage to property. Again there are no details of time, place or person. In paragraph. 7. the property is described in a general way. In para. 8, however, the accused are charged with having threatened to burn or damage or destroy unspecified property of persons unknown. This is not the way in which a criminal charge should be drawn.

(g) Paragraph 9:

Para. 9. charges the accused with having used unspecified"opprobious epithets or jeers or jibes" to divers unspecified persons. The accused are charged here in effect with using oppobious

language/...

language, nut neither the language nor even the effect of it is set out. It is elementary that where an offence charged was an offence consisting in the use of words, those words must be set out. See R. v. Raphoane, 1913 T.P.D. 241. R. v. Mokgatle and Another, 1952 (2) S.A. 124 (T).

In xx. Rex v. Raphoane, the accused was charged with contravening Section 2(5) of Act 38 of 1908, in that "on the 13th day of December 1912 and at or near Slagboom....the said accused did wrongfully and unlawfully, in the hearing or in the knowledge of any other person, by speech, use insulting or defamatory language concerning one J.D. Bosscher." The full Court held that it is necessary for a Charge sheet to contain particulars of the material facts which go to constitute thecrime. At p. 246 Wessels J. said this:-

"Now when you charge a man with "defamation" in general; you have to charge him with defamation in particular. Youmust charge him with having used, in the presence of others, certain words, which are defamatory of some person and unless the words are defamatory no crime is dicslosed. Hence it seems to me that the words are an essential element of the crime; if you omit them, you omit the essential part of the charge which makes it a crime. The omission of the words seem to me to be fatal. The charge, therefore, was quite inadequate; no crime was disclosed on the Charge sheet."

The reason for that rule is clear. An indictment must be in such a form that the Court and the accused on reading it may see that if the allegations made

in/...

in it are proved an offence is committed. (See R. v. Mokgatle (supra) at p. 131, R. v. Tirapani 1910 E.D.C. 193). It must be observed that each of these paragraphs is separated by the expression "and/or". Consequently, even if all the other particulars are not proved the Crown is seeking to convict the accused of public violence on the grounds alone of the commission of the acts set out in para. 9. The allegations in the present form are consequently on the authority cited, insufficient and bad in law. The judgment of Ramsbottom J. in R. v. Moilwanyana (3) 1957 (4) S.A. 608 (T), is not in conflict with this submission. In that case on a charge of incitement, Ramsbottom J. held that in such a case it may not be necessary to set out the ipsissima verba of the incitement, because the nature and meaning of the words used were given. (See 1957 (4) S.A. at p. 612(H) to p. 613 (C). Here not only are the words not given, but the effect and meaning of the words is not given either.

(h) Paragraph 11:

This paragraph deals with obstruction and other acts directed towards members of the S.A.P. Presumably these acts were committed at a different time and place from the acts referred to in paras. 14 to 17. Again one asks when, where and how?

(i) Paragraphs 12 and 13:

In these paragraphs the property damaged is for once sufficiently identified. But there can surely be no difficulty in stating at least the date and probable time of day. The accused may have a perfectly good

defence on alibi to this section of the charge, but as it is at present framed he cannot prepare his case. It is also to be noted that the incidents which are alleged to have occurred in these paragraphs must, in the nature of things, have been incidents which occurred at a time which could have been specified and which could not have lasted for four days and four nights.

(j) Paragraph 14:

Here again, the Crown has failed to specify the words which are alleged to have been used by the accused. The Crown has assembled an impressive collection of abusive words such as "taunt, curse, villify, insult" etc., but literary exercises of this kind are not an adequate substitute for proper and precise pleading in a criminal case./ Contrast Para. 16, where the Crown sets out a number of ipsissima verba.

(k) Paragraph 17:

Here it is alleged that the accused not only "hurled, cast or threw" (what is the difference?) sticks, stones and divers instruments "at, towards and upon the police", but also that the accused and divers other persons discharged fârearms. As the charge stands it appears to be the Crown case that the 70 accused and divers other persons discharged firearms against the police. So serious an allegation, if it was seriously and intentionally made by the Crown, must surely be the gravamen of this entire prosecution for public violence. Speaking on behalf of the accused, this is the first time upon which

we/...

we have heard it suggested that at Sharpeville the police were confronted by a crowd which included more than 70 persons who were not only armed with firearms, but actually discharged them against the police. Lest, perchance, we may have misunderstood the charge, we ask the Crown to inform us "which of the accused discharged firearms?" and whih of the police were injured as a result of the discharge of firearms by the accused. (Para. 18 of the Request).

It may well be that these questions have proved embarrassing to the Crown and that they are part of the reason why the Attorney-General wishes to brood upon this matter for a further two months.

VERSLAG VAN DIE KOMMISSIE WAT BENOEM IS OM ONDERSOEK IN TE STEL NA EN VERSLAG UIT TE BRING OOR DIE GEBEURE IN DIE DISTRIKTE VEREENIGING (TE WETE TE SHARPEVILLE-LOKASIE EN EVATON) EN VANDERBIJLPARK, PROVINSIE TRANSVAAL, OP 21 MAART 1960.

AAN SY EKSELLENSIE CHARLES ROBBERTS SWART, GOEWERNEUR-GENERAAL VAN DIE UNIE V N SUID-AFRIKA.

MAG DIT U EKSELLENSIE BEHAAG:

Ek, die ondergetekende, wat onder die handtekening van U Eksellensie as enigste Lid en Voorsitter van die Kommissie benoem is, het die eer om soos volg verslag te doen:-

HOOFSTUK I.

INLEIDING.

1. BENOEMING EN OPDRAG VAN KOMMISSIE.

Die benoeming en opdrag van U Eksellensie se Kommissie is in Goewermentskennisgewing No. 469 van 1 April 1960 uiteengesit en vir algemene inligting in n Buitengewone Staatskoerant (No. 6404) van dieselfde datum gepubliseer. Die bepalings van die Kommissiewet, 1947 (Wet No. 8 van 1947), is by Proklamasie No. 87 van 1 April 1960 op die Kommissie van toepassing verklaar te wees.

2. U Eksellensie se opdrag aan die Kommissie is soos volg:

> "Om ondersoek in te stel na en verslag uit te bring oor die gebeure in die Distrikte Vereeniging (te wete te Sharpeville-lokasie en Evaton) en Vanderbijlpark, Provinsie Transvaal, op 21 Maart 1960."

3. Vanweë die strekking van vertoë wat namens sekere belanghebbendes tot my gerig is, ag ek dit nodig om my begrip van U Eksellensie se opdrag aan die Kommissie hier aan te dui. Ek ag dit as vanselfsprekend dat sowel die ondersoek as die verslag binne die perke van die opdrag afgehandel moet word, en dat hierdie perke nie oorskry mag word nie - selfs nie waar dit billik, nuttig of wenslik mag blyk om af te wyk nie. Na behoorlike oorweging het ek besluit dat die taak wat U Eksellensie aan die Kommissie opgedra het dit is, naamlik, om getuienis in verband met die

betrokke gebeure in te win en na aanleiding daarvan verslag oor my feitebevindings te doen. Uit die aard van die saak handel die getuienis noodsaaklikerwys met die doen en late van persone, en is die Kommissie op daardie getuienis aangewys om die betrokke gebeure vas te stel. Na my beskouing is dit egter nie die taak van die Kommissie om verslag te doen oor die aanspreeklikheid van persone vir hulle doen en late nie. Bevindings van hierdie aard val na my beskouing buite die bestek van U Eksellensie se opdrag. Hierdie besluit kan egter ook op sekere billikheids-oorwegings steun. Daar was geen gedingvoerende partye voor die Kommissie nie, en die loop van die verrigtinge is deur die Kommissaris bepaal. Geen persoon kon met reg aanspraak maak op n behoorlike geleentheid om sy eie belange te bevorder of aantygings teen hom te weerlê nie. Die lede van twee groepe wat ten nouste by die tragiese gebeure betrokke was - nl., die Suid-Afrikaanse Polisie en die Pan Africanist Congress - was nie deur regspraktisyns verteenwoordig nie. Waar lede van hierdie twee groepe as getuies geroep is, is dit gedoen omdat hulle getuienis oor die gebeure kon gee, en nie ten einde hulle in staat te stel om n bepaalde saak voor te dra of om aantygings te maak of te weerlê nie. Die meerderheid van die persone wie se doen en late voor die Kommissie ter sprake was het nóg as getuies nóg in enige ander hoedanigheid aan die verrigtinge deelgeneem. Na my beskouing sou dit dus uiters onbillik wees om bevindings van die bovermelde aard te doen.

4. Na my beskouing volg dit dan ook dat dit nie die taak van die Kommissie is om enige besondere aanbevelings te doen nie of om enige optrede teen of in verband met enige persoon of groep aan die hand te doen nie. Die taak van die

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Kommissie is enkel en alleen om U Eksellensie oor die gebeure waarna die opdrag verwys in te lig.

WERKSAAMHEDE VAN DIE KOMMISSIE.

5. Afgesien van die bekendmaking in die Staatskoerant, het die pers ruim publisiteit aan die benoeming van die Kommissie verleen. Verslaggewers van verskeie nuusblaaie, verteenwoordigers van nuusagentskappe en persfotograwe het die verrigtinge gereeld bygewoon en aan publisiteit het daar dus nie ontbreek nie. Van die kant van die publiek - en veral die Bantoe gemeenskap - was daar volgehoue belangstelling tydens die sittings van die Kommissie.

6. Die Kommissie het op 11 April 1960 met sy werksaamhede begin en vanaf daardie datum tot 16 Junie 1960 toe die openbare verrigtinge afgesluit is was daar 34 sittingsdae. Op een dag, nl., 13 Mei 1960, het die Kommissie 'n sitting by die Baragwanath Bantoehospitaal gehou om getuienis van sekere pasiënte aan te hoor. Die orige sittings het almal te Vereeniging óf in 'n hofsaal van die landdros óf een van die bantoekommissaris plaasgevind.

7. Advokaat P.S. Claassen, Q.C., wat toe Prokureur-generaal van die Oranje-Vrystaat was, was aangestel om die getuienis van getuies te lei. Hy verdien lof vir die manier waarop hy hom van 'n besonder moeilike taak gekwyt het. In die geval van sekere getuies het ek die regspraktisyns wat namens belanghebbendes opgetree het versoek om die getuienis te lei. Ek het gemeen dat hierdie getuies in die heersende omstandighede (waarna ek later verwys) meer geneig sou wees om vryelik te getuig indien hulle getuienis deur daardie regspraktisyns gelei word.

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8. 'n Aansienlike aantal persone wat voorgegee het belanghebbendes te wees, was deur regspraktisyns verteenwoordig. Besonderhede betreffende hierdie verteenwoordiging is soos volg. Behalwe waar anders aangedui word, het die advokate in opdrag van mnre. Routledge, Douglas, Wilson, Aurel en Wimble opgetree.

Namens Eerwaarde A. Reeves:

(1) Advokaat I.A. Maisels, Q.C.
(2) Advokaat G. Colman, Q.C.
(3) Advokaat R.S. Welsh, Q.C.
(4) Advokaat H.C. Nicholas.
(5) Advokaat S.W. Kentridge.

Namens Marie Tshaka en drie andere:

Advokaat S.W. Kentridge.

Namens Elena Hlangwane en andere:

(1) Advokaat H.J. Hanson, Q.C.
(2) Advokaat C. Plewman.

Namens 136 beseerdes en afhanklikes:

Advokaat G. Colman, Q.C.

Namens Regering van Basoetoeland:

(1) Mnre. Snyman, Smullen & Smuts-Muller.
(2) Advokaat H.C. Nicholas, in opdrag van mnre. Snyman, Smullen en Smuts-Muller.

Namens Vanderbijlpark Munisipaliteit:

Advokate G.A. Coetzee, Q.C. en A.P. Kruger, in opdrag van V. Borcherds.

Die deelname van hierdie regspraktisyns aan die verrigtinge het my in staat gestel om getuienis te verneem wat ek moontlik andersins nie sou bekom het nie. Soos in die geval van advokaat Olaassen, is ek ook aan hulle dank verskuldig.

9. Op die eerste sittingsdag het sekere van die belanghebbendes aansoek gedoen dat die verrigtinge uitgestel word.

In vertoë wat in daardie verband tot my gerig is, is daar verwys na die bepalings van Proklamasie No. 90 van 30 Maart 1960 (soos bekendgemaak in Buitengewone Staatskoerant No. 6403 van daardie datum) waarvolgens daar kragtens die bepalings van artikel 2 van die Wet op Openbare Veiligheid, 1953 (Wet No. 3 van 1953) verklaar is dat 'n noodtoestand binne sekere gebiede, onder meer Vanderbijlpark en Vereeniging, bestaan en dat Noodtoestand-regulasies binne daardie gebiede van toepassing sou wees. Die betoog was, onder meer dat die gebeure wat ter sprake sou wees ten dele aanleiding tot die verklaring van die noodtoestand gegee het en dat besondere bepalings van die Noodtoestand-regulasies voornemende getuies mag afskrik om getuienis te gee of vryelik getuienis te gee omdat hulle moontlike aanhouding kragtens die bepalings van die voormelde regulasies vrees. Vir die redes wat op 12 April 1960 verstrek en genotuleer is - en wat ek nie hier weer hoef te herhaal nie - het ek die aansoek geweier. Ek het egter toe aangedui dat indien dit sou blyk dat die bestaan van die noodtoestand dit onmoontlik sou maak om genoegsame getuienis te bekom ek daaroor verslag sou doen. Met ander woorde, ek sou slegs tot feitebevindinge oorgaan indien ek oortuig sou wees dat genoegsame getuienis vir daardie doel verneem is.

10. Ek is nie bewus van enige persone wat belangrike getuienis kon gee wat weens vrees vir moontlike aanhouding nie na vore gekom het nie. Ek aanvaar egter dat daar wel sulke persone mag wees. Ek wil egter beklemtoon dat die verrigtinge nie afgesluit is vanweë 'n gebrek aan verdere getuienis nie. Daar moet onthou word dat die aantal potensiële getuies op honderde, selfs duisende, gestel kan word. Ek het die verrigtinge afgesluit omdat ek oortuig was dat genoegsame getuienis aangehoor was om my in staat te stel

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om u Eksellensie se opdrag uit te voer. Voor ek aldus besluit het, het ek die betrokke regspraktisyns geraadpleeg. Hulle was dit met my eens dat verdere getuienis geen nuttige doel sou dien nie en dat daar genoegsame getuienis aangehoor is ten einde bevindings in verband met die gebeure te doen. Van die regspraktisyns wat slegs by die gebeure te Sharpeville belang gehad het, het hulle instemming tot daardie gebeure beperk.

11. Wat die vrees van getuies betref dat hulle benadeel kon word indien hulle getuienis sou gee wil ek graag verwys na sekere vrywarings wat op gesag van Sy Edele die Minister van Justisie, mnr. F.C. Erasmus, deur my op 13 April 1960 (dit is die derde sittingsdag) bekendgemaak is. Daar is, eerstens, bekendgemaak dat geen persoon kragtens die Noodtoestand-regulasies aangehou sou word op grond van 'n verklaring gedoen in die loop van die verrigtinge nie en, tweedens, dat geen vervolging teen enige persoon ingestel sou word na aanleiding van enige sodanige verklaring en dat bedoelde verklaring ook nie tot sy nadeel teen hom in enige strafsaak gebruik sou word nie.

12. Die sittings het met inagneming van die bepalings van artikel 4 van die Kommissiewet, 1947 (Wet No. 8 van 1947) in die openbaar geskied. Die getuienis van 116 getuies is aangehoor. Elke getuie het die taal van sy keuse gebesig en amptelike tolke is waar nodig gebruik. Vir die doeleindes van die notule is slegs die twee amptelike landstale, Afrikaans en Engels, gebruik. Die getuienis is by wyse van 'n diktafoontoestel afgeneem en daarna is 'n getikte rekord van die verrigtinge saamgestel. Alle regspraktisyns het gereeld toegang tot die notule gehad.

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13. In verrigtinge van hierdie aard het belanghebbendes om begryplike redes nie n reg om kruisvrae aan getuies te stel nie. Na oorweging het ek egter besluit om dit tog in hierdie geval toe te laat. Waar getuienis, soos hier die geval was, onder eed of na aflegging van n plegtige onderneming om die waarheid te praat gegee word, is kruisverhoor n erkende en soms doeltreffende manier om die betroubaarheid daarvan te toets mits dit deur kundige persone onderneem word. Die verloop van die verrigtinge het weereens bewys dat doeltreffende kruisverhoor soms die enigste manier is om tot die waarheid deur te dring. Dit was van die begin af duidelik, altans vir sover dit die gebeure by Sharpeville betref, dat belanghebbendes nie in persoon sou optree nie, maar dat hulle belange deur regspraktisyns behartig sou word. Die moontlikheid dat leke ook kruisvrae sou wou stel was na my beskouing so skraal dat ek aangedui het dat die reg van kruisverhoor slegs aan regspraktisyns toegestaan sou word. Ek het egter terselfdertyd aangedui dat indien belanghebbendes wat nie deur regspraktisyns verteenwoordig word nie begerig is om enige getuie onder kruisverhoor te stel ek advokaat Claassen sou versoek om dit namens hulle te doen. So n reëling het my billik en prakties voorgekom. Hoe dit ookal sy, geen versoek van hierdie aard is tot my gerig nie. Advokaat Claassen het op my versoek kruisvrae gestel in die gevalle waar ander regspraktisyns op my versoek getuienis gelei het.

14. Na al die getuienis gelei is het verskeie regsverteenwoordigers van belanghebbendes my toegespreek. Ek het advokaat Claassen versoek om kommentaar te lewer op die verskeie pleidooie en hy het dit dan ook gedoen.

15. Dit is wenslik om kortliks aan te dui hoe die Kommissie te werk gegaan het om getuies te roep, want daar moet onthou word dat dit die Kommissie se plig is om sorg te dra dat

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getuienis bekom word. Dit was bekendgemaak dat persone wat getuienis wou gee voor of vertoë rig tot die Kommissie n skriftelike memorandum aan die Kommissie moes voorlê waarin hulle die strekking van die getuienis of vertoë kortliks moes uiteensit. Dit was nie bedoel dat hierdie memoranda in die notule opgeneem word nie, maar slegs om my in staat te stel om te besluit of die getuienis en/of vertoë van belang is en of die persone versoek moes word om voor die Kommissie te verskyn om getuienis te gee of die vertoë voor te dra. Verskeie persone het memoranda ingedien. Wat die polisiegetuies betref was ek voorsien van skriftelike verklarings wat kort na die gebeure opgestel was deur lede van die Suid-Afrikaanse Polisie wat by die gebeure betrokke was. Hierdie verklarings was gebruik om te bepaal watter polisie as getuies geroep moes word. Ek het die verklarings ook gebruik om hulle getuienis in die getuiebank te kontroleer. Waar afwykings voorgekom het kon ek die getuies dus daaroor ondervra. Dan het die Suid-Afrikaanse Polisie ook nog n aansienlike aantal verklarings van persone wat tydens die gebeure verwond is aan my voorgelê. Dit was duidelik dat van hierdie persone getuienis van belang kon gee en dat hulle weergawe van die gebeure van die van die polisie verskil. Die meerderheid van hierdie persone was toe nog òf in die Baragwanath Bantoehospitaal as pasiënte of in n gevangenis as verhoorafwagtendes of aangehoudenes kragtens die Noodtoestand-regulasies. Vir die redes in paragraaf 7 hierbo genoem het ek dit goed gedink om advokate Kentridge en Plewman te versoek om hierdie persone te nader, konsultasies met hulle te hou en na aanleiding daarvan voorstelle te doen oor watter persone as getuies geroep moes word. Ek het ook die nodige reëlings getref om die hou van konsultasies te vergemaklik. Hulle het dit dan ook gedoen en ek is hulle

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dank verskuldig vir die hulp wat hulle my in daardie verband gegee het. Die verskeie regspraktisyns is ook deur my meegedeel dat indien hulle enige moeilikheid ondervind in verband met die verkryging van getuienis hulle die aangeleentheid met my in kamers kon bespreek en dat ek dan alles binne my vermoë sou doen om die moeilikheid uit die weg te ruim. Waar getuies versoek het dat hulle name nie in die nuusblaaie gepubliseer word nie het ek die versoeke onder die aandag van die verteenwoordigers van die pers gebring en is die name dan ook sover my kennis strek verswyg. Waar getuies versoek het om getuienis in die afwesigheid van lede van die Suid-Afrikaanse Polisie te gee het ek sonder uitsondering daardie versoek toegestaan. Ek het ook gelas dat getuies buite die saal moet bly totdat hulle opgeroep word om getuienis te gee. Ek ag dit nodig om hierdie feite tot U Eksellensie se kennis te bring aangesien ek vermoed dat U Eksellensie sou wou verneem dat alle moontlike stappe gedoen is om getuies aan te moedig om getuienis te gee en dit vryelik te doen ten einde die Kommissie in staat te stel om sy opdrag na behore uit te voer.

16. 'n Aansienlike aantal bewysstukke is ingedien, onder meer, fotos wat deur persfotograwe geneem is. Ek sal by 'n latere geleentheid na sommige van hierdie bewysstukke verwys.

17. Ek het inspeksies ter plaatse gehou ten einde vertroud te raak met die ligging van die verskeie Bantoe woonbuurte. Ek het ook die Sharpeville-polisiestasie wat in Sharpeville geleë is besoek. Na die verrigtinge afgesluit is het ek die Polisiekollege naby Pretoria besoek ten einde inligting in verband met verskeie vuurwapens en die gebruik daarvan te bekom.

18. ~~Mnr. W.A. Botha~~, senior publieke aanklaer te Vereeniging, het as sekretaris van die ~~Kommissie opgetree~~ en in daardie hoedanigheid waardevolle dienste gelewer. Kaptein J. van der Bergh van die Suid-Afrikaanse Polisie, Jeppe, Johannesburg, het gereeld die sittings van die Kommissie bygewoon. Hy verdien lof vir die ywer wat hy aan die dag gelê het, maar veral vir die onpartydige manier waarop hy sy dienste verrig het.

HOOFSTUK II.

LIGGING VAN EN BESONDERHEDE IN VERBAND MET DIE BETROKKE BANTOE WOONBUURTE.

19. Vereeniging en Vanderbijlpark is aangrensende distrikte. Albei is besonder belangrike nywerheidssentrums. n Gevestigde Bantoegemeenskap is op werkverskaffers in hierdie en ander nabygeleë distrikte vir hulle werk aangewys. Die meerderheid van hierdie werknemers woon saam met hulle families in hulle eie woonbuurte. Vanderbijlpark het n bevolking van ongeveer 31,000 blankes en 26,000 Bantoes. Vereeniging het n bevolking van ongeveer 27,500 blankes en 61,000 Bantoes.

20. Vanderbijlpark:

Wat die distrik Vanderbijlpark betref het my opdrag betrekking op die gebeure waarby betogers, wat in hoofsaak van die Bantoe woonbuurte Bopholong en Boiphatang afkomstig was, betrokke was. Eersgenoemde woonbuurt is ongeveer 2½ myl van die dorp self en word daarvan geskei deur die sogenaamde Goue Hoofweg, n hoofpad wat Johannesburg met Sasolburg en die Vrystaatse goudvelde verbind. Afgesien van ongeveer 800 ongetroude mans wat in n hostel gehuisves word, woon daar ook nagenoeg 8,000 mans, vrouens en kinders in huise binne die woonbuurt. Boiphatang is aan die teenoorgestelde kant van die dorp geleë. Hierdie woonbuurt is ongeveer 4 myl van die dorp. Ongeveer 600 ongetroude mans woon in n hostel en ongeveer 5,000 mans, vrouens en kinders word in huise in die woonbuurt gehuisves.

21. Albei woonbuurte word deur die munisipaliteit van Vanderbijlpark beheer.

22. Vereeniging:

Wat die distrik Vereeniging betref het my opdrag betrekking op die gebeure te Evaton, 'n klein dorpie wat omtrent 12 myl van Vereeniging geleë is en Sharpeville, 'n Bantoe woonbuurt wat ongeveer 2 myl buite die dorp Vereeniging geleë is.

23. In Evaton woon slegs ongeveer 2,000 blankes. Nagenoeg 50,000 Bantoes woon in hulle eie woonbuurte wat aan die dorp grens. Die meerderheid van hierdie Bantoes werk te Vanderbijlpark, Vereeniging, Meyerton en Johannesburg.

24. Sharpeville, wat deur die munisipaliteit van Vereeniging beheer word, is 'n indrukwekkende Bantoe woonbuurt. Families woon saam in huise terwyl ongetroude mans in 'n hostel gehuisves word. Tydens die gebeure het daar nagenoeg 8,655 volwasse mans, 6,843 volwasse vrouens en 20,863 kinders onder die ouderdom van 18 jaar in Sharpeville gewoon. Ongeveer 1,700 ongetroude mans word in enkel kwartiere binne Sharpeville gehuisves.

25. In elkeen van die woonbuurte wat deur 'n munisipaliteit beheer word fungeer 'n Adviserende Naturellekomitee ooreenkomstig die bepalings van die Naturelle (Stadsgebiede) Konsolidasiewet, 1945 (Wet No. 25 van 1945) soos gewysig by Wet No. 36 van 1957. Die bevoegdheid van 'n komitee word as volg in artikel 37 van laasgenoemde Wet gestel, nl.:

"37. (2) (a) 'n Adviserende naturellekomitee of 'n vergadering van lede van twee of meer sodanige komitees ingevolge 'n regulasie byeengeroep, oorweeg en doen verslag oor -

(i) enige regulasie wat die stedelike plaaslike bestuur voornemens is om ingevolge sub-artikel (3)

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of (4) van artikel agt-en-dertig uit te vaardig of oor te neem;

(ii) enige aangeleentheid wat na sodanige komitee of vergadering deur die stedelike plaaslike bestuur of deur middel van die stedelike plaaslike bestuur deur die Minister verwys word;

(iii) enige aangeleentheid wat in besonder die belange van naturelle in die stadsgebied raak, waaromtrent die komitee of vergadering dit nuttig of wenslik ag om verslag te doen,

en stuur sy verslag aan die stedelike plaaslike bestuur of deur die stedelike plaaslike bestuur aan die Minister, na gelang van die geval, binne sodanige tydperk as wat aan die komitee of vergadering meegedeel word deur sodanige stedelike plaaslike bestuur.

(b) 'n Adviserende naturellekomitee of 'n vergadering van lede van twee of meer sodanige komitees ingevolge 'n regulasie byeengeroep, kan ook die uitvaardiging of oorname van 'n regulasie wat hy in belang van naturelle in die stadsgebied nodig of wenslik ag, by die stedelike plaaslike bestuur aanbeveel.".

26. Die enigste van die betrokke woonbuurte wat 'n polisiestasie binne sy grense het is Sharpeville. Hierdie polisiestasie is op 23 Oktober 1959 geopen. Die personeel bestaan uit 'n blanke sersant, 2 blanke konstabels, 8 Bantoe sersante en 27 Bantoe konstabels. Die ligging van en ander besonderhede in verband met die polisiestasie blyk uit sekere aanhangsels waarna hieronder verwys word. Die getuienis dui daarop dat voor die gebeure wat in hierdie verslag ter sprake is, daar 'n goeie gesindheid tussen die polisie te Sharpeville en die inwoners bestaan het.

27. Daar is enkele verwysings in die getuienis na die ekonomiese en ander omstandighede waaronder die Bantoes in die woonbuurte woon. Dit was klaarblyklik nie binne die bestek van die Kommissie om op daardie sake in te gaan en feitebevindings insake die geldigheid van griewe te doen nie. Vir sover daar egter n moontlike verband tussen griewe en die gebeure op 21 Maart 1960 kon wees, moes die Kommissie van die bestaan daarvan kennis neem. Ek verwys later na hierdie aangeleentheid.

28. Ek heg hierby aan n kaart waarop die ligging van die verskeie woonbuurte ten opsigte van mekaar asook ten opsigte van die dorpe Vanderbijlpark en Vereeniging aangedui word. (Aanhangsel "A").

HOOFSTUK III.

DIE PAN AFRICANIST CONGRESS EN SY VERBAND MET DIE BETROKKE GEBEURE.

29. Die getuienis bewys bo enige redelike twyfel dat n Bantoe organisasie, nl., die Pan Africanist Congress, ten nouste betrokke was by die gebeure waaroor hier verslag gedoen word. Die aanvoorwerk vir die betogings wat plaas-gevind het was in hoofsaak deur lede van die organisasie en persone wat hulle goedgesind was, onderneem. Wat die betogers van Bopholong en Sharpeville betref was lede van die organisasie ongetwyfeld te alle tersaaklike tye as leiers erken. Hoewel direkte getuienis ontbreek in die geval van die betogers van Boiphatang en Evaton, is dit waarskynlik dat lede van die organisasie ook daar die leiding waargeneem het.

30. Dit val nie binne die bestek van die Kommissie se opdrag om breedvoeriglik oor die stigting, algemene doel-stellings en optrede van die Pan Africanist Congress verslag te doen nie. Vir sover die doelstellings en optrede egter met die betrokke gebeure in verband staan is dit noodsaaklik om daarvan kennis te neem.

31. Vir sover ek hier na die doelstellings en optrede van die Pan Africanist Congress verwys verlaat ek my op getuienis wat voor die Kommissie gegee is, inligting wat blyk uit sekere bewysstukke wat ingedien is asook die getuienis van die President van die organisasie, Robert Mangaliso Sobukwe, gegee in n strafsaak waarin hy en andere gedurende April 1960 in die Johannesburgse Streekshof as beskuldigdes tereggestaan het. (Saak No. L.17/1960). Ek heg hierby aan n uittreksel uit die getuienis wat Sobukwe by daardie geleentheid gegee het. Dit handel met die stigting, doelstellings en optrede

van die Pan Africanist Congress in verband met die betogings op 21 Maart 1960. (Aanhangsel "B").

32. Die Pan Africanist Congress was op 4 April 1959 gestig deur persone wat gedurende November 1958 vanweë beleidsverskille as lede van n ander Bantoe organisasie, die African National Congress, bedank het. Die beweging is na die voorvalle op 21 Maart 1960 deur wetgewing in die ban gedoen en bestaan nie meer as wettige organisasie nie. (Wet No. 34 van 1960).

33. Uit Sobukwe se getuienis blyk, onder meer, dat die organisasie die uiteindelike omverwerping van blanke oorheersing beoog het. Die eerste doelwit was die onmiddellike afskaffing van die sogenaamde paswette. Die getuienis bewys dat die Pan Africanist Congress besluit het dat n veldtog teen die "paswette" op 21 Maart 1960 van stapel gestuur sou word en dat hierdie veldtog tot 1963 sou voortduur wanneer die uiteindelike doelwit - omverwerping van blanke oorheersing - verwesenlik sou word. Die besluit om tot hierdie optrede oor te gaan was geneem tydens n nasionale konferensie van die organisasie wat op 19 en 20 Desember 1959 gehou was. Die werklike beplanning en aard van die veldtog in verband met die afskaffing van die paswette sou deur n dagbestuur (National Working Committee) van die organisasie waargeneem word. Die datum waarop die veldtog van stapel gestuur sou word sou deur die President, Sobukwe, bepaal word en volgens sy verklaring in die getuienis waarna reeds verwys is het hy eers op 18 Maart 1960 (n Vrydag) by geleentheid van n perskonferensie bekendgemaak dat die veldtog op Maandag, 21 Maart 1960, sou begin. Volgens hom sou niemand voor hierdie bekendmaking geweet het dat die veldtog op 21 Maart sou begin nie. Die getuienis dui

op geen rede waarom hierdie bekendmaking so lank vertraag is nie. 'n Moontlike rede is dat die President die betrokke owerhede so min geleentheid soos moontlik wou gee om teen-maatreëls te tref. 'n Naweek, wanneer meeste Bantoe-werknemers tuis bly, sou ook die organiseerders van die veltog 'n goeie geleentheid bied om die verskeie optogte te reël.

34. Voor ek daartoe oorgaan om verslag te doen oor die optrede van die Pan Africanist Congress binne die distrikte Vanderbijlpark en Vereeniging wil ek graag na 'n bepaalde omstandigheid verwys. Die getuienis dui daarop dat die Pan Africanist Congress in die vooruitsig gestel het dat die veldtog op 'n landswye grondslag sou plaasvind. Te oordeel na inligting aan my verstrek blyk dit dat behalwe in die distrikte Vanderbijlpark en Vereeniging en in die omgewing van Kaapstad daar nie elders in die land voorvalle van die aard wat hier ter sprake is voorgekom het nie. Betreklike klein groepies Bantoes het hulle by enkele polisiestasies vir arrestasie aangemeld nadat hulle hulle bewysboeke (dit is die sogenaamde pas) by hulle huise gelaat het. Hierdie gebeure het egter nie tot enige insidente gelei nie. Die uitleg mag moontlik wees of dat die Pan Africanist Congress nie 'n landswye aanhang gehad het nie en dat hulle invloed slegs in sekere gebiede gegeld het of dat hulle opsetlik op sekere gebiede gekonsentreer het ondanks die feit dat daar voorgegee is dat die veldtog op 'n landswye grondslag sou plaasvind. Indien laasgenoemde uitleg korrek is, het dit sekerlik 'n verband met die knaende pogings wat byvoorbeeld te Sharpeville gedoen is om 'n skare byeen te bring.

35. Takke van die Pan Africanist Congress is in al die Bantoe woonbuurte waarna verwys is gestig. Daar is nie bevredigende getuienis oor die aantal lede binne daardie

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woonbuurte nie. Die sekretaris van die Sharpeville-tak, Nyakane Tsolo, wat voor die Kommissie getuig het, het die ledetal van sy tak op ongeveer 150 gestel. Die ondervoorsitter, Thomas More, het dit op ongeveer 100 gestel. Die ondervoorsitter van die Bopholong-tak, Sidwell Kaza, het die ledetal van sy tak op ongeveer 50 gestel. Daar is geen getuienis ten opsigte van die posisie te Boiphatang of Evaton nie. In die getuienis wat die President, Sobukwe, in die strafsaak gegee het, het hy erken dat daar by n geleentheid opsetlik vals inligting oor die ledetal gegee is. Die pers is moegedeel dat die ledetal 35,000 was toe dit reeds ongeveer 100,000 was. Die getalle wat aan die Kommissie verstrek is, is dus nie noodwendig akkuraat nie.

36. Hoewel die Kommissie se opdrag slegs op die gebeure op 21 Maart 1960 betrekking het, is dit egter noodsaaklik om na enkele gebeure voor daardie datum te verwys, en veral na die optrede van die Pan African Congress in verband met die reëling van die verskeie byeenkomste. Die gebeure op 21 Maart 1960 staan immers nie los van die omstandighede wat daartoe aanleiding gegee het nie, en moet teen die agtergrond van daardie omstandighede gesien word.

37. Die bewyse is duidelik dat die Pan Africanist Congress veraf die begin van Maart 1960 intensiewe voorbereidende stappe in verband met die voorgenome veldtog gedoen het. Verskeie pamflette wat voorgee deur die Pan Africanist Congress opgestel te wees, is in die betrokke woonbuurte versprei. In die getuienis word na vier pamflette verwys en hulle is ook as bewysstukke ingedien. Ek heg hierby aan afskrifte van die betrokke pamflette (Aanhangsels "C", "D", "E" en "F"). Hulle is blykbaar in hierdie volgorde versprei. Die laaste pamflet (dit is Aanhangsel "F") is gedurende die

nag van 17/18 Maart 1960 versprei; d.w.s. die verspreiding daarvan het met die bekendmaking van die begindatum van die veldtog saamgeval. Nyakane Tsolo het in sy getuienis erken dat hy die pamflette gesien het, maar ontken dat hy hulle in sy hoedanigheid van sekretaris van die Shrapeville-tak ontvang het, of dat die tak enige pamflette vir verspreiding ontvang het. Volgens sy getuienis sou hy ook nie geweet het wie die pamflette in Sharpeville versprei het nie. Dit is te betwyfel of Tsolo se getuienis in hierdie verband die waarheid is. Hoe dit ookal sy, die pamflette is in die verskeie woonbuurte versprei. Volgens Tsolo sou die Sharpeville-tak geen aparte stappe gedoen het om inwoners by die polisiestasie byeen te bring nie. In hierdie verband kan sy getuienis ook nie aanvaar word nie.

38. Die leiers van die Pan Africanist Congress wat voor die Kommissie getuig het, het sonder uitsondering beklemtoon dat dit die plan was dat slegs vrywilligers aan die veldtog sou deelneem en dat geen geweld gepleeg sou word nie. Ek handel later met die kwessie of daar dwang uitgeoefen is op persone wat aan die verskeie betogings deelgeneem het. Die getuienis regverdig nie n besluit dat die Pan Africanist Congress as sulks openlik geweldpleging as deel van die veldtog voorgestaan het nie. Daar is getuienis dat die Voorsitter van die Sharpeville-tak, Job Tsolo, by geleentheid van n vergadering wat op 10 Januarie 1960 gehou was en deur ongeveer 30 persone bygewoon was hom as volg in Engels uitgelaat het: "We are ready to destroy white domination against the black people in Africa and the only weapon is to fight. There is no freedom without bloodshed." Afgesien van die feit dat die getuienis oor wat by die vergadering gesê sou gewees het nie bevredigend is nie, is so n enkele

uitlating nie genoegsame regverdiging vir n besluit dat geweldpleging wel beplan was nie. Dit is in elk geval te betwyfel of die leiers van die organisasie geweldpleging openlik sou bepleit het, selfs al sou hulle besluit het dat daar, indien nodig, tot geweldpleging oorgegaan moet word. Wat egter duidelik blyk uit die pamflette is dat hulle daarop bedag was dat die veldtog lewensverlies mag meebring en dat hierdie moontlikheid hulle nie laat terugdeins het nie.

39. Die inhoud van die laaste pamflet (Aanhangsel "F") is van belang. Die eerste drie pamflette het die veldtog in die vooruitsig gestel en die Bantoes ingelig oor hoe hulle hulle op die belangrike gebeurtenis moes voorberei. Hulle moes kos opgaar en geld spaar. Elkeen moes £1.2.6. bydra tot n fonds wat bedoel was om weduwees en afhanklikes van die "nasie" te versorg. Die noodsaaklikheid vir dissipline en opoffering is beklemtoon. "There is no need for bloodshed. What is needed is UNITY and SACRAFICE. In 1960 we take our first step, in 1963 our last, towards freedom and independence" - so word dit in een van die pamflette gestel. In Aanhangsel "F" word besonderhede in verband met die veldtog vir die eerste maal uiteengesit. Die eise wat daarin gestel word is, onder meer, die algehele afskaffing van die paswette en n minimum loon van £35 per maand vir elke werknemer. Die Bantoes is opgedra om hulle op 21 Maart 1960 by polisiestasies vir arrestasie aan te meld. Almal moes bereid wees om gevangenisstraf te ondergaan. Die leuse was: geen borgstelling, geen verweer, geen boetes. Terwyl die veldtog aan die gang sou wees moes almal tuis bly. Die belofte was dus onafhanklikheid en n nuwe bedeling op ruim skaal vir die Bantoe werknemer - en dit alles binne drie jaar en sonder geweldpleging. So n program was voorwaar berekken om die belangstelling en geesdrif van die Bantoes gaande te maak.

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Die hele benadering was dat die Bantoes die 21ste Maart 1960 as n dag van geskiedkundige belang moes beskou. Na my beskouing is dit waarskynlik dat hierdie oorwegings die gemoedstoestand van die Bantoes op 21 Maart 1960 beïnvloed het.

40. Daar is getuienis wat daarop dui dat van die Bantoes die bewysboekstelsel as iets uit die bose beskou. Dit val nie binne die bestek van die Kommissie om ondersoek na die stelsel in te stel en verslag daaroor te doen nie. So ook is dit na my beskouing nie die taak van die Kommissie om vas te stel of die griewe in hierdie verband geregverdig is al dan nie. Die opregtheid van die getuienis van sommige getuies oor hierdie aangeleentheid het my egter beïndruk. Dit kan dus geredelik aanvaar word dat die Pan Africanist Congress se wekroep om tot die stryd teen die "passtelsel" toe te tree baie Bantoes vir daardie deel van die veldtog gewen het onafgesien die feit of hulle nou lede van die organisasie was en of hulle in die algemene en meer revolusionêre beleid daarvan belanggestel het al dan nie.

41. Die getuienis verwys ook na enkele ander omstandighede wat, indien dan nie n regstreekse, tog n onregstreekse verband met die gebeure het. In sy getuienis verwys die superintendent van Sharpeville na die lone van die inwoners en waag die mening dat dit nie genoegsaam is om hull in staat te stel om n bevredigende lewensstandaard te handhaaf nie. Volgens hom sou dit hulle vatbaar gemaak het vir die propoganda van die Pan Africanist Congress wat aansienlike loonsverhogings in die vooruitsig gestel het. Dit sou dit vir die Pan Africanist Congress moontlik gemaak het om die inwoners van Sharpeville vir hulle saak te wen ondanks die feit dat volgens hom die oorgrote meerderheid normaalweg

vriendeliewend en wetsgehoorsaam is. Ek kon natuurlik nie op die saak ingaan en vasstel watter gewig aan hierdie oorweging geheg moet word nie. Dit is egter die opinie van n persoon wat deeglik vertroud is met omstandighede te Sharpeville en wat, vir sover ek kon oordeel, simpatiek teenoor die inwoners gesteld is.

42. In die loop van die verrigtinge is daar ook verwys na die feit dat die Bantoes (vermoedelik veral dié wat politiek-bewus is) gefrustreer voel omdat daar dan geen effektiewe manier is om hulle griewe reggestel te kry nie. Hoewel die Adviserende Naturellekomitee vermoedelik van alle moontlike griewe binne n woonbuurt kan kennis neem, kan hulle slegs in n adviserende hoedanigheid optree. Sommige van die getuies het hulle baie skerp oor die ondoeltreffendheid van hierdie komitees uitgelaat, en daarop gesinspeel dat die veldtog wat deur die Pan Africanist Congress beoog is die enigste manier is om aan hulle griewe uiting te gee en so verligting te probeer kry.

43. In hierdie Hoofstuk het ek kortliks verslag gedoen oor die verband tussen die Pan Africanist Congress en die gebeure op 21 Maart 1960. Hoewel die Kommissie se opdrag nie n verslag oor die doen en late van daardie organisasie vereis nie, is dit nogtans nodig om van die bovermelde feite kennis te neem omdat dit, ten dele altans, die agtergrond is waarteen die gebeure op 21 Maart 1960 gesien en verstaan moet word.

44. Op 18 Maart 1960 het die President van die Pan Africanist Congress bekendgemaak dat die geskiedkundige veldtog, wat bedoel sou gewees het om sonder geweldpleging plaas te vind, op Maandag 21 Maart 1960, dwarsdeur Suid-Afrika sou begin. Dit is nou die taak om na aanleiding van die getuienis verslag te doen oor wat daarna gebeur het, en veral om vas te stel wat daartoe

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aanleiding gegee het dat nagenoeg 75 lede van die Suid-Afrikaanse Polisie op die eerste dag van die veldtog te Sharpeville op n skare Bantoes gevuur en 69 gedood en ongeveer 180 verwond het.

HOOFSTUK IV.

DIE GEBEURE IN DIE DISTRIK VANDERBIJLPARK.

45. Eksemplare van die pamflette waarna reeds verwys is, is onder die Bantoes in die distrik Vanderbijlpark versprei. Munisipale amptenare belas met die beheer van Bopholong en Boiphatang het daarvan kennis gedra en die posisie dopgehou. Niks noemenswaardig het egter voor die vroeë oggendure van Maandag 21 Maart gebeur nie.

46. Volgens berigte wat sowel die polisie as die munisipale amptenare ontvang het, het Bantoes in Bopholong en Boiphatang vanaf omstreeks 1 vm. op die Maandag die inwoners uit hulle huise geroep en aangesê om groepe te vorm met die doel om later na die polisiestasie (wat binne Vanderbijlpark gelê is) te marsjeer waar hulle hulle vir arrestasie sou aanmeld. Almal is blykbaar versoek om hul.e bewysboeke tuis te laat. Hoofkonstabel Kotze van die Suid Afrikaanse Polisie het getuig dat hy omstreeks 1 uur vm. Bopholong besoek het en waargeneem het hoe n aantal Bantoes van huis tot huis beweeg om die inwoners op te roep om by hu le aan te uit. Hy het met die Bantoes gepraat en hulle het om meeg deel dat hulle voornemens is om na die polisiestasie te ga n. Die polisie het geen stappe gedoen om hierdie optred stop te sit nie. Dit blyk dat daar in elk geval te min polisie was om handelend op te tree. In sy getuienis verwys hy ook na die feit dat daar van die kant van die Bantoes geen vyandig-gesindheid teenoor die polisie geopenbaar is nie. Hy en ander lede van die polisie het tussen Bopholong en Boiphatang beweeg en die posisie dopgehou.

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47. Die getuienis bewys dat van die persone wat met die reëling van die optogte behulpsaam was geweld en dreigemente van geweld gebruik het om inwoners van Bopholong te dwing om by die optog aan te sluit. Dat dit so was blyk nie alleen uit die getuienis van n munisipale inspekteur, Van Wyk nie, maar ook uit die getuienis van inwoners van Bopholong wat voor die Kommissie getuig het.

48. Die onder-voorsitter van die Bopholong-tak van die Pan Africanist Congress, Sidwell Kasa, het voor die Kommissie getuig en erken dat hy as leier van die Bopholong betogers opgetree het. Hy sê dat hy omstreeks 3.30 vm. as gevolg van die lawaai wakker geword het en toe by n groep Bantoes aangesluit het. Hy het blykbaar die verdere leiding waargeneem. Sy getuienis dat hy niks te doen gehad het met die verspreiding van die Pan Africanist Congress se pamflette nie kom my vreemd voor en is waarskynlik vals. Volgens hom sou die polisie hom genader het in verband met die optrede van persone wat andere in hulle huise wakker maak. Hy sou die polisie toe meegedeel het dat hy hulle behulpsaam sou wees om daardie persone te arresteer indien die polisie hulle kon vind. Hy sê voorts dat die polisie tussen die skare ingegaan het en later teruggekom het en hom toe meegedeel het dat hulle nie voorvalle van daardie aard gesien het nie. Ek twyfel of so n gebeurtenis ooit plaasgevind het. Na my beskouing dui die getuienis egter daarop dat hy waarskynlik kennis gedra het van die feit dat inwoners gedwing word om by die optog aan te sluit en dit ten minste oogluikend toegesien het.

49. Volgens die getuienis voor die Kommissie blyk dit waarskynlik te wees dat die Bantoes gelas was om hulle bewysboeke by hulle huise te laat en na die polisiestasie in optog te marsjeer sodat hulle daar gearresteer kon word. Hoewel geweld en dreigemente gebruik is om van die inwoners te dwing om by

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die optog aan te sluit, is daar geen getuienis wat daarop dui dat die inwoners van Bopholong en Boiphatang òf deur lede van die Pan Africanist Congress òf enigiemand anders onder die indruk gebring is dat dit deel van die veldtog is dat geweld teenoor die polisie gebruik moes word nie. Sidwell Kasa het getuig dat hy die mense meegedeel het dat daar nie geweldpleging sou wees nie en dat hulle geen wapens moes dra nie. Hoewel hy na my beskoning in verskeie opsigte vals getuig het, is dit beslis moontlik dat hy in hierdie opsig die waarheid praat. Hoe dit ookal sy, die getuienis regverdig n besluit dat die oorgrote meerderheid van die Bopholong en Boiphatang betogers nie wapens gedra het nie.

50. Die skare in Bopholong en Boiphatang het geleidelik aangegroei. Die bestuurder van die Nie-blanke Sake Departement van die Vanderbijlpark Munisipaliteit, Knoetze, het omstreeks 6 vm. na Bopholong gegaan en geskat dat daar toe n skare van nagenoeg 3,000 persone byeengekom het. Vandaar het hy na Boiphatang gegaan waar hy n groep van ongeveer 250 aangetref het. Hy het drie lede van die Adviserende Komitee in die administratiewe kantore aangetref en hulle het hom meegedeel dat hulle verplig word om aan die betoging deel te neem. Hy is toe weer terug na Bopholong en het ook toe daar vir die eerste keer tekens van vyandiggesindheid waargeneem. Ongeveer 7 vm. het die Bopholong skare, wat uit mans, vrouens en kinders bestaan het tot ongeveer 4,000 vermeerder en was hulle besig om in die rigting van die dorp te beweeg. Hulle het reeds tot teenaan die Goue Hoofweg gestaan. Daar was n geringe aantal polisie (nagenoeg 12) wat geprobeer het om die skare te stuit.

51. Knoetze het by hierdie geleentheid met Sidwell Kasa gepraat en hom ve. sook om nie met die optog voort te gaan nie.

Hy het ~~dit ook aan~~ hom gestel dat dit dan die plan sou gewees het dat slegs mans aan die optog sou ~~deelneem~~. Dit is duidelik dat nóg Kasa nóg die lede van die skare toe bereid sou gewees het om die optog te staak. Knoetze het die indruk gekry dat Kasa toe nie meer in staat was om die skare te beheer nie.

52. Omstreeks 7.15 vm. het die skare die Goue Hoofweg begin oorsteek en hulle opmars na die polisiestasie voortgesit. Aangesien daar slegs 10 blanke polisie-amptenare en ongeveer 14 Bantoe konstabels by die Goue Hoofweg beskikbaar was is geen poging gedoen om die skare te keer nie. Die Bantoes het van hulle kant ook geen neiging getoon om met die polisie handgemeen te raak nie. Afgesien van voorvalle waar van die betogers op die persele van woonhuise oortree het en bediendes gedwing het om by hulle aan te sluit het die opmars ordelik verloop totdat die skare ongeveer 8 vm. by die polisiestasie stelling ingeneem het. Na die skatting van getuies sou daar van 3,000 tot 5,000 Bantoes (mans, vrouens en kinders) in die onmiddellike omgewing van die polisiestasie aanwesig gewees het. (Daar moet onthou word dat die Boiphatang betogers nooit by die van Bopholong aangesluit het nie, aangesien laasgenoemde groep reeds voor die aankoms van die Boiphatang betogers uiteengejaag is).

53. Hoewel lawaaierig, was die Bopholong betogers aanvanklik vreedsaam en selfs so inskiklik dat hulle op versoek van die polisie vanaf die straat na oop terrein ten weste van die polisiestasie beweeg het. Sidwell Kasa en ander leiers het voor die skare op en neer beweeg en hulle aangemoedig om by herhaling die vir hulle betekenisvolle slagkreet "Afrika!" uit te roep. Dat dit bereken was om die gemoedere gaandeweg te laat oplaai is heel duidelik.

54. Knoetze het die skare nogeens kort na hulle aankoms by die polisiestasie toegespreek en by hierdie geleentheid het Sidwell Kasa as tolk opgetree. Knoetze was goed bekend onder die inwoners van Bophelong en Boiphatang en hy was dus op daardie stadium die aangewese persoon om hulle toe te spreek. Hy het hulle meegedeel dat die owerhede van die betoging en die redes daarvoor kennis geneem het, en dat hy hulle aanraai om of na hulle werk of huistoe te gaan aangesien die optog onwettig was. Hoewel die skare hom aangehoor het, het hulle te kenne gegee dat hulle nie voornemens was om uiteen te gaan nie. Hierna het die skare al hoe meer opgewonde geraak.

55. Kaptein Cawood van die Suid-Afrikaanse Polisie, Vereeniging, het omstreeks 8 vm. by die polisiestasie, Vanderbijlpark, aangekom en was van toe af in bevel van die plaaslike polisie. Hy het n besonder gunstige indruk op my gemaak. Advokaat Kentridge, wat die hoof betoog namens belanghebbendes voorgedra het, het hom lof toegeswaai vir sy optrede in verband met die betogings. In sy betoog stel hy dit as volg: "The one officer who appears to have displayed all these qualities (... reflection, initiative and humanity ....) on 21st March, Captain Cawood, met with signal success." Ek wil nog byvoeg dat hy na my beskouing n eerlike en betroubare getuie was.

56. Die getalsterkte van die polisie onder bevel van kaptein Cawood was 22 blankes (wat 3 speurders ingesluit het) en 11 Bantoes. Die bewapening het bestaan uit 1 stengeweer, .303 gewere, rewolwers en knuppels. In die getuienis word daarna verwys dat n aantal blanke burgerlikes met vuurwapens in die nabyheid van die polisiestasie vergader het. Van hierdie persone was daar etlikes wat gemeen het dat die Bantoes met vuurwapens uiteengeja moes word aangesien daar toe reeds

bekend was dat duisende betogers van Boiphatang op pad na die polisiestasie was. Kaptein Cawood het hulle aangemaan om kalm te bly en dit ook baie duidelik gestel dat vuurwapens slegs op sy bevel gebruik sou word.

57. Die skare was teen hierdie tyd luidrugtig, en daar was n neiging om die polisie uit te tart. Daar was egter geen poging om die polisie aan te val of enige geweld te pleeg nie. Kaptein Cawood het Sidwell Kasa, wat as leier uitgewys is, genader en hom versoek om die skare te beweeg om na hulle huise terug te keer. Kasa wou of kon die versoek nie uitvoer nie. Hy het verklaar dat hy nie meer die skare kon beheer nie. Kaptein Cawood het toe aan hom gesê dat hy nie met so n leier kan onderhandel nie en gelas dat hy aangehou word.

58. n Aantal Bantoes, wat blykbaar ook leiers was het toe na vore getree en gesê dat hulle sou vertrek indien Sidwell Kasa vrygelaat word. Kaptein Cawood het aan hierdie versoek voldoen. Knoetze het op sy versoek weer die skare toegespreek en hulle aangesê om huistoe te gaan. Kasa het as tolk opgetree. Hy het hulle ook gewaarsku dat indien hulle nie binne 5 minute uiteengaan nie geweld gebruik sou word om hulle uiteen te dryf.

59. Kaptein Cawood het self ook die skare probeer toespreek, maar kon nie daarin slaag nie. Dit het toe geblyk dat hulle vasberade was om nie uiteen te gaan nie, ondanks die vrylating van SidwellKasa. Die algemene toestand het toe ook versleg. Vanuit die skare het uitroepe gekom van "Skiet ons". Enkele Bantoes het oor die heining van die polisiestasie geklim en sommige het met die polisie handgemeen geraak waar pogings gedoen is om hulle terug te druk.

60. Volgens kaptein Cawood het die posisie gevaarlik geword,

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veral daar hy inligting gehad het dat n groot optog van Boiphatang, wat net uit mans bestaan het, op pad na die polisiestasie was. Hy was ook bevrees dat die gewapende blanke inwoners en die Bantoes slaags kon raak. Die gemoedstoestand aan albei kante was sodanig dat die moontlikheid van so n botsing wel bestaan het.

61. Daar is geen getuienis dat daar enige voorafbeplande opset was om die polisie of hulle stasie aan te val nie. Skermutselinge tussen enkele betogers en polisie moet in daardie lig gesien word en nie as bewys van n algemene aanval deur die skare of n deel daarvan op die polisie nie. Kaptein Cawood se benadering was dat die aanwesigheid van so n groot aantal betogers by die polisiestasie in die omstandighede waarna ek reeds verwys het die handhawing van openbare orde bedreig en dat hulle dus beweeg moes word om uiteen te gaan. Hy was veral bewus van die feit dat hy n betreklike geringe aantal polisie tot sy beskikking gehad het en dat hy hom in n onmoontlike posisie kon bevind indien die betogers van Boiphatang ook sou opdaag.

62. Ek het reeds verwys na stappe wat gedoen is om die skare te beweeg om uiteen te gaan. Die betogers was gewaarsku dat geweld gebruik sou word indien hulle nie binne 5 minute aan die versoek gehoor gee nie. Hierdie waarskuwing is by meer as een geleentheid herhaal. Kaptein Cawood het 9 traangasbomme tussen die skare gegooi en die polisie het die voorstes begin terugdruk en met enkele van hulle handgemeen geraak. Kaptein Cawood het besluit dat die skare nie uiteen wou gaan nie en dat geweld gebruik sou moes word. Hy het opdrag gegee dat n stormloop met knuppels uitgevoer word.

63. Daar is n geskil oor die omstandighede waaronder hierdie stormloop met knuppels begin is. In sy getuienis het

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Sidwell Kasa erken dat daar opdrag gegee is dat die skare binne 5 minute uiteen moes gaan en dat hy as tolk opgetree het. Sy getuienis was dat hy reeds vroeër die môre aan die betogers gesê het dat hulle na hulle huise moes terugkeer indien hulle versoek word om dit te doen. Sy getuienis hieroor lui: "In the morning I said to the crowd, going there, 'If we are told to go back, we must be satisfied and we must go back and wait for the day the man could come and speak to us'". (U Eksellensie sal daarop let dat hier, soos te Sharpeville en blykbaar ook te Langa, n verwysing is na iemand wat die Bantoes sou kom toespreek). Hy sê ook dat hy hulle by die polisiestasie aangeraai het om na Bopholong terug te keer en ook meegedeel het dat hulle die posisie daar kon bespreek. Hy sou kaptein Cawood meegedeel het dat 5 minute nie n redelike tyd was om die skare te gun om uiteen te gaan nie. Volgens hom sou traangasbomme gebruik gewees het onmiddellik na hy die betogers toegespreek het - vermoedelik nog voor die verstryking van die tydperk van 5 minute - en toe die skare reeds begin het om uiteen te gaan. Hy het ook Knoetze se getuienis dat die skare reeds voor kaptein Cawood se aankoms versoek was om huistoe te gaan, ontken. Volgens Kasa se getuienis het daar dus nie die noodsaaklikheid vir n stormloop met knuppels bestaan nie.

64. Ek het reeds daarna verwys dat Sidwell Kasa nie n betroubare getuie is nie. Waar sy getuienis met die van kaptein Cawood en Knoetze verskil is ek nie bereid om sy getuienis te aanvaar nie. Na my beskouing het die skare ruim geleentheid gehad om uiteen te gaan voordat die polisie hulle knuppels gebruik het. Dit is in elk geval na my beskouing onwaarskynlik dat kaptein Cawood n knuppel stormloop sou gelas het indien hy te eniger tyd n neiging aan die kant van die betogers om uiteen te gaan, sou waargeneem het.

65. Die knuppel stormloop het toe plaasgevind en 16 blanke polisie, 14 Bantoe polisie en 14 munisipale inspekteurs het daaraan deelgeneem. Hierdie optrede was nie onmiddellik suksesvol nie. Sommige Bantoes het hulle teëgesit en wou nie wyk nie. Na enkele minute het die skare as geheel egter op die vlug geslaan en in die rigting van Bopholong beweeg. Op pad het groepe egter nog steeds weerstand gebied. Hulle het die polisie onder die klippe gesteek en enkele van hulle selfs tydelik oorweldig. Dit blyk dat daar op hierdie stadium met vuurwapens gevuur is. Sommige daarvan het geknal in n gebied waar daar geen lede van die polisie was nie. Die skote was waarskynlik deur burgerlikes afgevuur, hoewel daar tog n moontlikheid bestaan dat enkele van die Bantoes ook vuurwapens kon besit het. Kaptein Cawood het n polisie-amptenaar wat geskiet het betig. Daar is eg er geen getuienis wat daarop dui dat iemand by daardie geleentheid gedood of verwond is nie. Kaptein Cawood meld in sy getuienis dat hy omtrent 15 skote gehoor het.

66. Die oorgrote meerderheid van die skare het sonder enige vertraging of verdere tekens van verset na Bopholong terug-gekeer. Etlike honderde Ba[illegible]s het egter net buite die dorp stelling ingeneem en klippe [illegible]. Kaptein Cawood het 10 polisie oor die pad opgest[illegible]n die groep gewaarsku dat indien hulle naderkom en klipp[illegible] gooi hy op hulle sou skiet. Hierdie groep het toe teruggeval en die polisie gewink om nader te kom. Hierdie groep he[illegible] feitlik uitsluitlik uit jong mans bestaan. Hoewel n paar klippe na die polisie gegooi was het die groep in die rigting van Bopholong teruggeval. Kaptein Cawood het van die polis[illegible]e na die polisiestasie teruggestuur en 5 man by hom gehou. Hy het toe waargeneem dat Bantoes besig was om motorvoertuie op die Goue Hoofweg voor te keer, en dat sommige van hulle goedere uit n vragmotor

verwyder het. Hy het drie konstabels geneem en met n geleende motorkar soontoe gery. Die meerderheid van hierdie Bantoes het toe tot binne Bopholong teruggeval. Toe hy by die Goue Hoofweg aankom het hy n groep van 100 na 150 jong Bantoes opgelet wat omgedraai en klippe opgetel het. Daar was n jong Bantoe aan die spits wat vroeër reeds die polisie met klippe bestook het. Hierdie groep het op kaptein Cawood se motorkar afgestorm. Kaptein Cawood het n geweer by een van die konstabels geleen en die leier doodgeskiet. Die hele groep het toe tot in Bopholong teruggeval. Oor hierdie voorval getuig Kaptein Cawood as volg:

"Net toe ons by die Golden Highway kom, toe het ongeveer 100 na 150 jong Naturelle omgedraai. Daar was n jong Naturel gewees - ek het hom vroeër ook gesien, dat hy met klippe gegooi het. Hy, lyk dit vir my, was die leier gewees. Hy het gegooi; hy het ook klippe opgetel en nader gehardloop.

Waar het jy hom vroeër gesien? --- Net hier by die garage. Hy was een van die wat daar by so n hoop klippe gestaan het, en daar gegooi het na ons, en so aan.

Jy het hom nie by die Polisiestasie gesien nie? --- Ek kan nie onthou nie. In elk geval, hy het toe daar na n klomp geskree en geroep hulle moet uitkom; hulle het toe uitgekom, klippe opgetel en gegooi. Hy het toe ook eers gegooi, en toe n paar groot klippe opgetel en nader gehardloop. Ek weet nie; dit het gelyk asof hy ons in die kar wou kom seermaak, of iets van die aard. Die klomp het hom gevolg. Ek het gesien as ek nie nou iets doen nie, agter my was ook n kar met monse gewees; daar was verskeie karre daar gewees, en hulle sou die mense in die karre seermaak. Almal het klippe gehad toe hulle aangestorm gekom het. Ek het toe n geweer gevat by

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een van die kêrels, en ek het die Naturel doodgeskiet net toe hy gooi. Ek het hom hier deur geskiet, en agter uit, net toe hy die klip na ons-toe gooi (toon aan borskas).

Wat was die reaksie gewees? --- Hy het onmiddellik daar neergestort. Hulle het toe staan en kyk, klippe neergegooi en lokasie-toe gegaan.

Hoekom het jy dit juis nodig geag om hom te skiet? --- Ek het net drie man by my gehad, en al die Naturelle was alreeds in die lokasie in gewees. Ek het hom geskiet om verskeie redes. Nr. 1, omdat ek geglo het dat hy en sy mense, wie hy gelei het, wou vir ons daar in daardie voertuie kom seermaak; dit was die een rede. Die tweede rede is dat toe hy nou uitkom met hierdie mense, het baie mense begin omdraai om terug te kom, en ek het gevrees vir die mense wat daardie pad gebruik; hulle lewens sou in gevaar wees as die klomp mense nou daar moet uitkom en moleste daar in die pad aanvang. Ook, sover ek kon sien, was hy n leier van n klomp Naturelle wat al vantevore klippe gegooi het, en nou weer met klippe bestook het.

Meen jy dat dit die gewenste uitwerking gehad het? --- Dit het, ja. Hulle het onmiddellik die klipgooiery gestaak, en omgedraai.".

67. Kaptein Cawood het na die polisiestasie teruggekeer waar hy die betogers van Boiphatang, wat toe reeds besluit het om na hulle huise terug te keer, aangetref het. Hy het hulle meegedeel dat hulle dit onmiddellik moes doen. Hulle het dit dan ook onmiddellik gedoen.

68. Oor die optrede van die groep van Boiphatang - wat geheel-en-al verskil van die optrede van ander groepe waaroor hierdie verslag handel - getuig Knoetze as volg:

"Was u by die Polisiestasie gewees toe die Boi Phatong klomp daar aangekom het? --- Ja; dit was vir daardie doel dat ek daar gewag het. Die Polisie het n berig ontvang dat daar omtrent 5,000 mense in optog was. Ek het gedink die syfer kon nie waar wees nie want ek is goed bekend met die bevolking van die lokasie. In elk geval, toe hulle aangekom het, het ek die skare geskat op omtrent 2,500, en dit was mense uit Boi Phatong; en ek het hulle toe gevra om stelling in te neem aan die Suidekant van die Polisiestasie en ek het hulle gevra om uit die pad te bly want ek het gesê as mense iemand daar raakry kan hulle maar (onhoorbaar). Toe het ek ene Samuel Dhlamine, wat ek baie goed ken, na vore sien kom en ek het hom gevra of hy een van die leiers is, toe sê hy nee, daar is nie leiers nie, hulle - hy kom maar net vorentoe. Toe het ek vir die mense gesê, en hy het getolk, dat die owerhede kennis geneem het en dat dit aan die Staat sal oorgedra word, wat die doel was van die optog, en ek het hulle aangeraai om onmiddellik te versprei en huistoe te gaan. Ek het seker nie langer as drie of vier minute met hulle gepraat nie, en hy het getolk vir my en die mense het daarna omgedraai en weggegaan en daar was geen verdere voorval nie.

DIE VOORSITTER: Was dit hoofsaaklik mans, of was daar ook ...? --- Dit was uitsluitlik mans gewees. Daar was geen vrouens of kinders by gewees nie.

VERHOOR HERVAT: Het u enige verklaring vir die onderskeid tussen die optog van Boi Phatong vergeleke met die van Bophelong? --- Die gedrag?

Die feit dat daar nou net mans was, en die ander, verstaan ek, was vrouens ook? --- Ek sou sê een van die redes daarvoor is dat Boi Phatong-lokasie verder uit die

dorp geleë is; dit is omtrent 4 myl uit die dorp geleë en Bophelong is maar ongeveer 2½ myl; en volgens ek vir Dhlamini ken, sou hy baie sterk beheer uitgeoefen het oor die skare wat onder sy beheer gestaan het terwyl die ander man, volgens my opinie, n swak persoonlikheid het. Met ander woorde, die Bophelong affêre was n "free-for-all". Almal het somar aangesluit. Die ander was myns insiens n baie beter georganiseerde optog.

DIE VOORSITTER: Die onder Dhlamini? --- Die onder Dhlamini, van Boi Phatong af. Dhlamine was aan ons bekend as die brein agter die hele organisasie in daardie omgewing.

VERHOOR HERVAT: Watter omgewing? --- In Vanderbijl-park.

Sluit dit nou Bophelong ook in? --- Ja; dit sluit al die lokasies in. Dit het ook duidelik geblyk die volgende dag, toe hy gekom het; terwyl ek besig was om n skare van omtrent 300 toe te spreek in Bophelong-lokasie om 6-uur die volgende oggend het hy met ander leiers daar aangekom en toe het ek hulle gevra om persone aan te wys om na die Polisie saam met my te gaan sodat ons die saak kon uitpraat. Toe was hy aangewys as die hoof, en n paar ander persone het saamgekom.

Is dit, dink u, die enigste rede vir die onderskeid tussen die optrede van die twee klompe? --- Ja, en moontlik dat die eerste klomp voor die Polisiestasie suksesvol uitmekaar gejaag was; dit het heel moontlik n sielkundige uitwerking op die ander klomp gehad. Hulle was bewus daarvan. Ek dink hulle moes bewus gewees het daarvan. Heelwaarskynlik het dit die deurslag gegee, ook; en dan - ek ken hulle baie goed. Ek ken ook vir Dhlamini goed, en moontlik het my gesprek selfs daartoe bygedra.".

69. Volgens die getuienis blyk dit dat 2 Bantoes doodgeskiet is. Ek het reeds verwys na die geval waar kaptein Cawood een doodgeskiet het. Dr. H. Steyn, die Distriksgeneesheer, het 2 nadoodse ondersoeke gedoen, en een daarvan het klaarblyklik betrekking op die Bantoe wat deur kaptein Cawood geskiet was. Wat die ander geval betref kon ek geen betroubare getuienis verkry nie. n Onderwyser van Bopholong, Ernst Pooe, het getuig dat hy gesien het hoe n jong Bantoe geskiet word. Volgens hom sou n polisieman in uniform vanuit n polisievoertuig geskiet het. Die voorval het blykbaar in dieselfde omgewing en ook nagenoeg op dieselfde tyd plaasgevind as die waarby kaptein Cawood betrokke was. Daar is geen getuienis dat enige ander voertuig met polisie toe in die omgewing was nie, en dit is moontlik dat die getuie Pooe se getuienis verwys na die Bantoe wat deur kaptein Cawood geskiet is, en dat hy fouteer waar hy meen dat daar vanuit die motorkar geskiet is. Daar moet egter onthou word dat daar heelwat oproerigheid in die omgewing van die Goue Hoofweg was: voertuie is voorgekeer en met klippe bestook en in een geval was daar ook plundering en roof. Dit is dus moontlik dat die Bantoe in daardie omstandighede geskiet was en dat die persoon wat geskiet het òf nie besef het dat hy hom doodgeskiet het nie òf die feit nou opsetlik verswyg. Nog n moontlikheid is natuurlik dat die bestaan van daardie getuienis nie tot my kennis gekom het nie en dat ek dus geen stappe gedoen het om daardie getuienis te verkry nie.

70. Hoewel albei groepe deur blanke woonbuurte beweeg het blyk dit dat die betogers, behalwe in uitsonderingsgevalle, geen poging gedoen het om eiendom te beskadig of die inwoners met geweld te bedreig nie. Hoewel daar getuienis is dat sommige Bantoes van [illegible] Bopholong groep kieries gedra het blyk

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dit dat dié van Boiphatang geen wapens gedra het nie, of dit altans nie openlik gedra het nie. Toe die Bopholong groep by die polisiestasie aangekom het was daar ongeveer drie polisie-amptenare beskikbaar.

HOOFSTUK V.

DIE GEBEURE IN DIE DISTRIK VERENIGING.

EVATON.

71. Ek het reeds daarna verwys dat ongeveer 2,000 blankes en 50,000 Bantoes in aparte woonbuurte te Evaton woonagtig is. Daar is slegs een polisiestasie in die buurt en die is aan die oostekant van die blanke woonbuurt geleë. Die Bantoe woonbuurt is aan die westekant van die blanke woonbuurt geleë.

72. Dit ly geen twyfel dat die Evaton-tak van die Pan Africanist Congress pamflette van die aard waarna reeds verwys is onder die Bantoes versprei het of ten minste toegesien het dat dit versprei word. Die vermoede is dat lede van die tak en andere wat hulle goedgesind was verantwoordelik was vir die reëling van die betoging by die polisiestasie op 21 Maart 1960. Daar is geen getuienis oor die ledetal van die Evaton-tak nie.

73. Uit die getuienis blyk dat groepies Bantoes vanaf omtrent 7 vm. begin byeenkom het. Dat dwang op inwoners toegepas is om by die betoging aan te sluit kan as n feit aanvaar word, hoewel ek nie in staat is om enige juiste beeld te vorm van die omvang van die dwang nie. n Bantoekommissaris, T.C. Klopper, het geskat dat die aantal vrywilligers op so laag as 10% gestel kan word. Hierdie skatting steun egter nie op enige bevredigende gronde nie. n Bantoe getuie, Simon Makhalemele, wat getuig het dat hy gedwing was om by die betoging aan te sluit het egter verklaar dat die meerderheid van die betogers as gevolg van dwang wat op hulle uitgeoefen was aan die optog deelgeneem het. Hoofkonstabel Kukard van die Suid-Afrikaanse Polisie te Evaton het geskat dat slegs

omtrent 30% van die betogers vrywillig daar was. In hierdie verband is ek geneig om te glo dat betogers na die voorval nie te gretig sou gewees het om te erken dat hulle uit eie beweging aangesluit het nie.

74. Dit blyk ook dat ander stappe gedoen is om die inwoners te verhoed om na hulle werk te gaan. Volgens die getuienis van Kukard was geen busse daardie oggend beskikbaar om werknemers na hulle werk te vervoer nie. Volgens inligting wat hy ingewin het, blyk dit dat busbestuurders nie bereid was om aan diens te gaan nie omdat hulle gevrees het dat hulle dit tot hulle skade sou doen. Een van hierdie bestuurders, Richard Civela, het voor die Kommissie getuig oor hoe hy deur Bantoes voorgekeer was wat toe die passasiers verjaag het en hom beveel het om na sy depot terug te keer.

75. Daar is ook getuienis dat strate versper is deur groot klippe daarop te rol. Dit was blykbaar bedoel om die verkeer - insluitende polisie voertuie - te belemmer.

76. Die groepe het bymekaar aangesluit en na die polisiestasie gemarsjeer waar hulle omstreeks 9.30 vm. aangekom het en op oop terrein aan die suid-oostekant daarvan stelling ingeneem het. Daar is geen getuienis dat die betogers wapens gedra het nie. Volgens Hoofkonstabel Kukard sou daar van 15,000 na 20,000 Bantoes (mans, vrouens en kinders) vergader het. Die getalsterkte van die polisie was toe 12 blankes en 18 Bantoes. Hulle het onder bevel van luitenant Van Eeden gestaan.

77. Drie of vier van die betogers, wat vermoedelik leiers was, het na luitenant Van Eeden gegaan en aan hom gesê dat hulle nie bewysboeke dra nie en gearresteer wou word. Die antwoord wat aan hulle gegee was, as dat hulle buite moes wag

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sodat die polisie te besig was. Die Bantoes is terug na die skare en het blykbaar aan hulle verslag gedoen. Na 'n kwartier het hulle teruggekeer en is nogmaals gevra om te wag. Hoofkonstabel Fukard het in sy getuienis verduidelik dat die polisie so opgetrse het om tyd te wen. Luitenant van Eeden het versoek dat versterkings na Evaton gestuur word.

78. Teen ongeveer 10.30 vm. het die skare runoerig geword. Die vier Bantoes het weereens na luitenant Van Eeden gekom met n versoek dat hulle gearresteer moet word. Terwyl hulle nog besig was om te praat het vliegtuie van die Suid-Afrikaanse Lugmag opgedaag en duikvlugte bo die betogers uitgevoer. (Soos later sal blyk, is dit Majoor van Zyl van die Suid-Afrikaanse Polisie te Vereeniging wat voorgestel het dat vliegtuie gestuur word. Die verwagting was blykbaar dat hierdie duikvlugte die betogers moontlik sou laat besluit om uiteen te gaan). Wat Evaton betref is hierdie verwagting dan ook verwesenlik. Aanvanklik het die betogers hulle nie juis aan die vliegtuie gesteur nie, maar nadat die duikvlugte n paar maal herhaal is, het party van die betogers se moed hulle blykbaar begewe en het hulle besluit om huistoe te gaan. Toe n deel van die skare met die terugtog begin het die res ook nie op hulle laat wag nie. Daar het ook polisie-versterkings opgedaag maar dit blyk dat die betogers toe reeds op pad terug was.

79. Behalwe miskien in twee gevalle waar van die betogers kafees binnegegaan het en goedere gesteel het, is daar geen getuienis van geweld of dreigemente van geweld teenoor die blanke inwoners nie ondanks die feit dat die betogers deur die blanke woonbuurt gemarsjeer het. Soos in die geval van Vanderbijlpark is daar ook hier geen getuienis wat daarop

dui dat daar enige voorafbeplande opset was om die polisie of die polisiestasie aan te val of dat geweld of dreigemente van geweld te enige tyd teenoor die polisie toegepas is nie. Ek het reeds verwys na die feit dat dwang wel op Bantoe inwoners toegepas is om hulle te verkry om aan die betoging deel te neem.

HOOFSTUK VI.

DIE GEBEURE IN DIE DISTRIK VERENIGING.

SHARPEVILLE.

INLEIDING.

80. Die algemene strekking van die getuienis is dat die inwoners van Sharpeville normaalweg n wetsgehoorsame en vredeliewende gemeenskap is. Die woonbuurt was die trots van die munisipale amptenare wat by die beheer daarvan betrokke was. Wat die betrekkinge tussen die inwoners en die plaaslike polisie betref het daar blykbaar niks geskort nie.

81. Op 21 Maart 1960 het duisende van hierdie inwoners by die Sharpeville polisiestasie vergader en teenaan die noordelike, westelike en suidelike draadomheinings stelling ingeneem. Polisieversterkings het met gereelde tussenposes opgedaag en teen ongeveer 1.15 nm. was daar 130 blanke en 77 Bantoe polisie-amptenare binne die omheinde terrein van die polisiestasie. Buite die onheinde terrein, maar nog in die onmiddellike omgewing van die polisiestasie, was daar n verdere 29 blanke en 62 Bantoe polisie-amptenare. Omstreeks 1.40 nm. het 75 lede van die polisiemag ongeveer 700 skote afgevuur as gevolg waarvan 69 Bantoes gedood en nagenoeg 180 verwond is.

82. Aan die een kant word dit nou gestel dat, alhoewel daar by geleentheid liedere gesing en slagkrete aangehef is, die skare deurgaans in n gemoedelike stemming was, dat daar geen aanvaarbare getuienis is wat daarop dui dat die skare of n aansienlike deel daarvan vyandiggesindheid teenoor die polisie geopenbaar het of die polisie aangeval het of wou aanval nie, en dat die tragiese voorval in hoofsaak gewyt moet

word aan en n direkte uitvloeisel is van rassevrees, raase-vooroordeel en die gevoel van minagting wat die polisie, as blankes, teenoor die Bantoegemeenskap koester. Daar-teenoor is dit die strekking van die polisiegetuienis dat van die aanwesiges by die polisiestasie reeds vroeër die dag by voorvalle betrokke was waar geweld sowel teenoor as deur die polisie gebruik is, dat die gemoedere van die skare by die polisiestasie gaandeweg as gevolg van aanhitsing deur die leiers opgelaai het totdat breekpunt bereik is toe hulle omstreeks 1.40 nm. begin het om die polisie aan te val en dat die polisie toe verplig was om te vuur ten einde die aanval af te weer.

83. Die stellings bots lynreg en kan nie redelikerwys in hulle geheel met mekaar versoen word nie. Soos later blyk kan hulle wel ten dele met mekaar versoen word. Na my beskouing is die enigste praktiese benadering tot die feite-geskille wat uit die getuienis blyk die wat deur geregshowe by die beregting van siviele gedinge erken en toegepas word.

84. Volgens die onder-voorsitter, Thomas More, was die Sharpeville-tak van die Pan Africanist Congress gedurende Julie 1959 gestig. Die Superintendent van Sharpeville (Labuschagne) het getuig dat hy vanaf September 1959 klagtes van inwoners in verband met die bedrywighede van die Pan Africanist Congress ontvang het. Onder kruisverhoor het dit geblyk dat dit slegs enkele inwoners was wat by hom kom kla het. Die bedenkinge van die inwoners het, onder meer, betrekking gehad op die optrede van die Pan Africanist Congress om Bantoes van die sogenaamde "tsotsi"-tipe as lede te werf. Vir sover ek die woord "tsotsi" verstaan het dit blykbaar betrekking op n tipe jong Bantoe wat in die algemeen werksku en losbandig van gedrag is. Dit blyk dat die woord

soms vryeliker as wat die omstandighede regverdig gebruik word. Dit is egter, wat Sharpeville betref, n feit dat die meerderheid van die lede van die Pan Africanist Congress jong Bantoes was. Die onder-voorsitter, More, en die Sekretaris, Tsolo, is onderskeidelik 25 en 20 jaar oud.

85. Die Pan Africanist Congress het ongetwyfeld die inwoners van Sharpeville bearbei en, onder meer, die pamflette waarna reeds verwys is, versprei of laat versprei. Hierdie pamflette was vir al die inwoners bedoel, of hulle nou lede van die Sharpeville-tak was al dan nie. Tsolo het ontken dat die Sharpeville-tak enigiets met die verspreiding te doen gehad het of enige stappe gedoen het om die betoging wat op 21 Maart 1960 plaasgevind het te organiseer. Ek sal later verwys na die aandeel wat lede van die Pan Africanist Congress in sowel die betoging as die reëling daarvan gehad het.

86. Dit was reeds vanaf Vrydag, 18 Maart, bekend dat die veldtog op die Maandag sou begin. Eksemplare van die pamflette het die polisie en munisipale amptenare ook bereik. Te oordeel na die getuienis was dit vir hulle die belangrikste bron van inligting oor watter optrede op die Maandag verwag kon word. Soos elders, het die munisipale owerhede en die polisie die posisie te Sharpeville ook dopgehou. Geen stappe is voor die Maandag gedoen om polisieversterkings na Vereeniging te stuur nie. Aangesien daar voorgegee is dat die veldtog op n landswye grondslag sou plaasvind kon daar kwalik vooraf enige opdrag gegee word om polisieversterkings na een of ander bepaalde gebied te stuur. Daar het blykbaar geen rede bestaan om te vermoed dat die toestand te Vereeniging meer aandag as enige ander omgewing sou verg nie. Die polisie het trouens verwag dat die posisie in die suidwestelike gebied van Johannesburg veral dopgehou sou moes word. Daar het

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inderdaad niks noemenswaardig in daardie gebied plaasgevind nie. Selfs wat die distrikte Vanderbijlpark en Vereeniging betref blyk dit dat die posisie te Vanderbijlpark en veral te Evaton aanvanklik op die Maandag meer kommer as die posisie te Sharpeville veroorsaak het, en dat versterkings eers daarheen gestuur is.

86. Die getuienis oor gebeure gedurende die naweek verskaf ook geen voortekens van die tragiese klimaks wat op Maandag bereik is nie. Sersant Grobler, die stasie-bevelvoerder te Sharpeville polisiestasie, vertel van enkele voorvalle waar bewysboeke gedurende die namiddag van Vrydag, 18 Maart, in die openbaar opgeskeur en verbrand is. Polisie optrede in verband met hierdie voorvalle het blykbaar 'n houding van vyandiggesindheid van die kant van die betrokke Bantoes ontlok. G'n besondere belang kan egter aan hierdie enkele voorvalle geheg word nie. Die strekking van die getuienis is dat niks noemenswaardig vanaf Vrydagaand tot Sondagaand gebeur het nie, behalwe natuurlik dat die laaste pamflet (Aanhangsel "F") van huis tot huis afgelewer is. Dit ly geen twyfel nie dat die inwoners van Sharpeville die inhoud van hierdie pamflet onder mekaar bespreek het. Hoewel daar nie veel direkte getuienis is om 'n bevinding te regverdig nie, is ek oortuig dat lede van die Pan Africanist Congress en andere wat hulle goedgesind was doenig was met voorbereiding vir die uitvoering van die opdrag bevat in die pamflet (Aanhangsel "F").
Moses Smit, 'n lid van die Pan Africanist Congress, het in sy getuienis erken dat die veldtog in verband met die dra van bewysboeke deur sy party georganiseer was en dat hy en ander lede met die reëling van die betoging in Sharpeville behulpsaam was.

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DIE GEBEURE TE SHARPEVILLE GEDURENDE DIE NAG VAN 20/21 MAART 1960.

87. Watter stappe, indien enige, nou ookal gedurende die naweek gedoen is, blyk dit uit die getuienis dat daar vanaf Sondagaand handelend opgetree is ter voorbereiding van die veldtog wat die volgende oggend sou begin. Ten einde U Eksellensie n duidelike beeld van die gebeure te gee is dit nuttig om na sekere lugfotos wat as bewysstukke ingedien is te verwys. Die eerste (Aanhangsel "G") is n lugfoto van n gedeelte van Sharpeville. n Sleutel tot hierdie lugfoto word ook aangeheg (Aanhangsel "H"). n Verdere lugfoto, een van die polisiestasie wat omstreeks 11 vm. op die Maandag geneem is, word ook aangeheg (Aanhangsel "I"). Laasgenoemde foto is vanaf die suidelike kant geneem en die skare aan die suidelike kant van die polisiestasie staan in Zwanestraat wat nagenoeg op n lyn oos-wes geleë is. n Gedeelte van Seeisostraat - die hoofstraat van Sharpeville wat aansluit by die pad na Vereeniging - is aan die noordelike kant van die polisiestasie en is nagenoeg op n lyn suidwes-noordoos geleë. Die twee strate sluit bymekaar aan in n verkeerssirkel ten weste van die polisiestasie en vorm dus die twee strepe van die letter "V".

88. Die stasie-bevelvoerder, sersant Grobler, getuig dat hy omstreeks 11.15 nm. berig ontvang het dat groepe Bantoes in Sharpeville van huis to huis gaan om inwoners aan te sê om hulle bewysboeke tuis te laat en by die groepe betogers aan te sluit. Die berig het ook daarop gedui dat van hierdie groepe nie geskroom het om van geweld en dreigemente van geweld gebruik te maak nie. As gevolg van hierdie berig het Grobler en n aantal ander lede van die polisiemag onder bevel van kaptein Cawood (? wie ek reeds vantevore verwys het)

na Sharpeville vertrek.

89. By sy aankoms in Sharpeville het kaptein Cawood vasgestel dat daar geen telefoonverbinding met die telefoonsentrale in die dorp was nie. Later is vasgestel dat die telefoonkabel by n punt net buite Sharpeville beskadig is en ook dat publieke telefoons in die omgewing van die polisiestasie buite werking gestel was. Daar is geen getuienis wat my in staat stel om te bevind wie vir die beskadiging verantwoordelik is nie. Dit is egter duidelik dat dit gedurende Sondagaand gedoen is. Dit is te betwyfel of dit bloot n geval van kwaadwillige saak-beskadiging was.
Na my beskouing is dit waarskynlik dat hierdie optrede tog n verband het met wat daar in die loop van die nag in Sharpeville plaasgevind het. Dit was bereken en vermoedelik bedoel om die polisie in die uitvoering van hulle plig te belemmer en ook om dit vir inwoners moeilik te maak om telefonies hulp te ontbied.

90. Kaptein Cawood het n aantal Bantoes by die polisiestasie aangetref en hulle het hom meegedeel dat geweld gebruik word om inwoners te dwing om by die groepe wat in Sharpeville rondbeweeg het aan te sluit. Sommige het tekens van aanranding getoon en polisie-beskerming versoek. Kort daarna het kaptein Cawood n groep vrouens en kinders in n straat ontmoet. Volgens hom was hulle byna histeries en het hulle verduidelik dat hulle mans verplig was om by die betogers aan te sluit. Hulle het die polisie versoek om hulle mans te ontset en na hulle terug te bring. Twee vrouens het gekla dat hulle huise beskadig was en dit aan kaptein Cawood uitgewys.

91. Die groep polisie, wat uit nagenoeg 11 blankes en 37 Bantoes bestaan het, het toe aangery tot hulle n groep

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van ongeveer 100 Bantoes teëgekom het. Die meerderheid van hierdie groep was met stokke en kieries gewapen en was baie luidrugtig. Kaptein Cawood het hulle versoek om die mans wat gedwing was om by hulle aan te sluit toe te laat om huistoe te gaan. Hy het hulle ook aangesê om hulle wapens neer te sit en huistoe te gaan. Volgens hom was die meerderheid van die wat wapens gedra het jong Bantoes tussen die ouderdom van 18 en 25 jaar. Die Bantoes het geweier om gehoor te gee en kaptein Cawood het sy manne beveel om hulle te ontwapen. Die Bantoes het hulle teëgesit en kaptein Cawood het toe gelas dat hulle met knuppels uiteengejaag word, wat ook dan gedoen is.

92. Daarna is n groep van ongeveer 500 Bantoes, wat ook stokke en kieries gedra het, aangetref. Dit het geblyk dat hulle op pad na n ry huise was. Oor wat gebeur het getuig kaptein Cawood as volg:

"Hulle het beweeg af na n ry huise toe, oor die oop veld, in die rigting van n ry huise, daar. Ons het regoor hulle stilgehou en met hulle probeer praat, maar hulle het net fluitjies geblaas, geskree en so aan, en toe in die rigting van die huise gegaan. Ek het toe om die stuk oop veld gery en tussen hulle en die huise gekom. Hulle het toe daar fluitjies geblaas en geskree, en vir n paar oomblikke het dit vir my voorgekom asof hulle heel moontlik vir ons gaan aanval, daar. Dit was nag gewees en donker gewees, en ek het toe n .303 geneem en ek het daar voor my toe twee skote in die grond geskiet.

Watter tyd van die nag was dit, omtrent? --- O, dit was net kort na 12-uur. Dit is moeilik om die tyd te sê, maar dit was net na 12-uur. Dit was die tweede groep, daardie. Ek het toe twee skote daar in die grond geskiet. Ek het dit

om verskillende redes gedoen - nr. 1, hulle het nie gesien of ons vuurwapens by ons het nie, omdat dit nag gewees het, en ek wou die twee skote daar skiet sodat hulle kan besef dat ons is gewapen, die manne daar het vuurwapens by hulle, dat hulle dit kan weet. En ek het ook met 'n .303 daar geskiet, omdat dit 'n baie harder skoot maak as 'n gewone pistool; en ook, dit het 'n bietjie kritiek gelyk, op die oomblik. Dit het gelyk of hulle nader kom, en nadat ek die skote geskiet het, het hulle fluitjies geblaas en taamlik vinnig beweeg in 'n rigting waar ons daarna gekom het. Hulle het toe daar deur 'n stukkende plek in 'n hoë draad geklim. Ek ken die lokasie nie so goed nie, maar ek vermoed dit is 'n sports-veld daardie. Hulle is daardeur, in 'n oop stuk grond, weer. Ons het toe 'n draai gery en toe gekom waar hulle weer by mekaar gekom het. Ek het gesê hulle moet uit-mekaar gaan, huistoe gaan, en een van hulle het geskree, "Ons hou 'n meeting". Ek weet nie wie dit was nie. In elk geval, hulle was almal gewapen en ons was nie baie gewees nie, en die kêrels was weer beveel om hulle uitmekaar te jaag en hulle wapens van hulle af weg te neem. Ons het toe so gedoen, hulle daar uitmekaar gejaag, en die wapens wat ons kon kry, het ons toe ook daar geneem en in die voertuig gegooi. Van toe af het ons in die lokasie rond-gery, en gedurig groepe opgebreek. Party groepe moes ons geweld mee gebruik, om hulle uitmekaar te kry. Ek kan nie presies sê hoeveel groepe ons opgebreek het nie, maar twee-uur die môre het ek 'n rapport ontvang dat daar 'n vergadering is, meer of min ten Suide van die Polisie-stasie. Ek is toe daarheen.".

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93. In sy getuienis verwys kaptein Cawood daarna dat hy ongeveer 15 groepe vanaf omstreeks 3 vm. tot 5 vm. op Maandag uiteengejaag het. (Dit sluit nie die groepe in waarna hierbo verwys is nie). Hy het die indruk gekry dat die groepe Bantoes dit beplan het om al die mans in Sharpeville by een plek bymekaar te bring. Hy sê ook dat hy orals Bantoes aangetref het wat gekla het dat hulle gedwing was om by groepe betogers aan te sluit. Sodra die groepe uiteengejaag is het van hierdie Bantoes hulle afgesonder en die polisie meegedeel dat hulle huistoe gaan.

94. By een geleentheid het kaptein Cawood 'n groep van ongeveer 1500 mans aangetref, wat onder leierskap van Thomas More (onder-voorsitter van die Pan Africanist Congress tak te Sharpeville) besig was om 'n vergadering te hou. Oor wat daar gebeur het getuig kaptein Cawood as volg:

"Ek het 'n rapport ontvang daar is 'n groot vergadering in die lokasie, en ek ry daarheen. Dit was op 'n oop stuk grond gewees en ek het die kar so ligte gedraai dat die ligte op die mense skyn. Ek het toe daar gesien, meer of min 1.500 Bantoes bymekaar, daar op die oop stuk grond. Ek het nader gery tot feitlik by hulle, uitgeklim en toe het een Bantoeman na my gekom. Ek het gesê "Ek groet jou" of so-iets van die aard. Ek onthou ek het hulle gegroet. Ek het gesê "Ek groet julle; wat maak julle hier; wie is julle leier?" Hierdie Bantoeman het by my gekom en gesê "My naam is Thomas More; ek is die leier". Ek vra toe, "Wat maak jy hierso?" en hy het vir my gesê "Ek hou hier 'n vergadering".

DIE VOORSITTER: Watter taal is toe gebruik --- Ons het Afrikaans of Engels gepraat; ons het nie die Bantoetaal gepraat nie.

Kan jy onthou of dit Afrikaans, of Engels was? --- Ek het Engels met hom gepraat. Intussen het mnr. Labuschagne, die superintendent, met meer manne ook aangesluit by ons. Mnr. Labuschagne was by my gewees. Toe vra ek vir hom of hy permissie het om vergadering te hou, toe sê hy nee; hy het in Engels gepraat. Hy sê toe, "I have applied for permission; I haven't received a reply yet". Toe vra ek vir mnr. Labuschagne wat die posisie is, en hy sê toe vir my Thomas More het gevra om vergadering te hou maar hy het nog nie permissie om vergadering te hou nie. Die Bantoemans daar was feitlik almal gewapen gewees. Hulle het hulle stokke en kieries so (dui aan) omhoog gehou. Aan hulle kleredrag was dit ook duidelik, hulle het nie die drag aan gehad wat n Naturel normaalweg aan het as hy by voorbeeld na n kerk-toe gaan nie. Hulle het nie hulle Sondagpakke aan gehad nie. Hulle het almal maar ou klere aangetrek. Ek het aan hom toe gesê hy het nie permissie om vergadering hier te hou nie, en die vergadering wat hy hier hou moet onmiddellik gestaak word, en sy mense moet huistoe gaan. Ek het aan hom gesê ek gee vir hom vyf minute tyd, dan moet sy mense trap, hierso, of ek sal geweld gebruik. Hy wou toe daarop met my argumenteer en so aan, maar ek sê toe vir hom "Man, ek wil niks weet nie; jy kan n vergadering eenvoudig nie hier hou nie. Die lokasie is in rep en roer; dinge is baie verkeerd hier, en jy moet nou onmiddellik gaan". Hy het daar geargumenteer, en ek het hom kans gegee en so-en-so, en toe sê ek, "Jy kan dit net nie doen nie". Toe sê hy hy gaan met sy mense praat. In die tussentyd het hulle op gekom, die Bantoes, tot feitlik twee of drie treë van ons af, vanwaar ons gewees het. Hy het toe teruggegaan na die Bantoes, en toe hy so tussen hulle in is,

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het hy sy hande so opgesteek, en so gemaak (dui aan).

Met ander woorde, hy het hulle gewink om nader te kom? --- Ja; hy het sy rug na my-toe gedraai en tussen die eerste paar gestaan en toe só gemaak (dui aan, arms omhoog, winkend). Ek weet nie wat hy daarby bedoel het nie. Ek kon net aflei dat hy ...

VERHOOR HERVAT: Wat was die reaksie daarop? --- Die reaksie - wel, hulle het toe vinnig nader gekom. Daar was fluitjies geblaas, n groot lawaai, en ek het die kêrels toe gesê hulle moet hulle daar stormloop en uitmekaar uit ja, wat ons toe ook gedoen het.

Het julle hulle toe stormgeloop met die knuppels? --- Met knuppels uitmekaar uit gejaag. Nadat ons hulle uitmekaar uit gejaag het - u weet, jy kan nooit veel juis in die hande kry nie, want die oomblik dat die manne nader storm, hardloop hulle; hulle gooi die kieries neer en hulle hardloop weg. Maar daar is toe van voor af twee skote van die Naturelle se kant af op ons geskiet - net nadat hulle uitmekaar is, van voor af. Ek het in daardie rigting gery, maar as ek nader kom hardloop hulle weg, en ek kon nie iemand sien, of wie daar geskiet het nie.

Maar kan jy seker wees dat dit nie van jou manne was nie? --- Nee, my manne - elke keer wanneer ons nou uit gewees het uit die voertuie, het ek seker gemaak; nee, dit was nie van my manne nie. Daar is geen twyfel nie.

Is niemand beseer nie? --- Daar is niemand van ons beseer nie.".

95. In sy getuienis verwys kaptein Cawood ook daarna dat die groepe gaandeweg meer aggressief geword het en die polisie om hulle voertuie onder die klippe gesteek het. Daar is egter geen bewys dat enige persoon gedurende hierdie middernagtelike

voorvalle waarby die polisie en die inwoners betrokke was ernstige beserings opgedoen het nie.

96. Die Distrikskommandant, majoor Van Zyl het omstreeks 3 vm. met versterkings by kaptein Cawood aangesluit en die polisiemag is toe in twee groepe verdeel. Kaptein Cawood het met een groep die noordelike gedeelte van Sharpeville gepatrolleer terwyl majoor Van Zyl met n ander groep die suidelike gedeelte gepatrolleer het. Hoewel die patrollies klein groepies Bantoes aangetref het, het daar geen verdere botsings plaasgevind nie, aangesien hierdie Bantoes almal voorgegee het dat hulle oorspronklik gedwing was om aan die optogte deel te neem en toe op pad terug na hulle huise was. Teen omtrent 5 vm. was die posisie redelik stil en het groepies Bantoes by bushaltes in Seeisostraat begin vergader, vermoedelik om na hulle werk te gaan. Oor wat daarna in Seeisostraat gebeur het doen ek later verslag.

97. Afgesien van die polisie-getuies het daar ook verskeie inwoners getuienis gegee oor wat gedurende die nag te Sharpeville gebeur het. Hierdie getuienis dui ook daarop dat groepe gedurende die nag van huis tot huis gegaan en inwoners aangesê het om by hulle aan te sluit. Daar is ook verwysings na geweldpleging van die kant van hierdie groepe en die optrede van die polisie teenoor hulle. n Getuie, Francis Motshoahole, het getuig dat hy gedurende die nag gewek is toe sy vensterruite gebreek is en teen sy deur geslaan is. Hy het na buite gegaan en beswaar gemaak teen hierdie optrede. Hy is toe meegedeel dat tsotsis daarvoor verantwoordelik was en dat die skade die volgende dag herstel sou word. Hy het aanvanklik geweier om by hulle aan te sluit maar het dit tog later gedoen. Toe hy buite kom het hy omstreeks 250 mans gesien en onder hulle n aantal jong Bantoes, wat hy as

tsotsis beskryf het, opgemerk. Volgens hom het die groep nie wapens gedra nie en was die meerderheid van hulle jong Bantoes. Hy vertel ook dat hy gesien het hoe lede van hierdie groep mans uit ander huise gehaal het. Toe hierdie groep tot ongeveer 400 aangegroei het, het hulle met die polisie slaags geraak en was hulle uiteengejaag. Voor die polisie die groep uiteengejaag het, het 'n voorwerp hom teen die kop getref en het hy sy bewussyn verloor. Hy kon nie vasstel wie hom beseer het nie. Aangesien die polisie toe 8/9 treë weg was is dit waarskynlik dat hy getref was deur 'n voorwerp wat deur een van die skare na die polisie gegooi was. Hoe dit ookal sy, toe hy sy bewussyn herwin het, het hy opgestaan en opgelet dat die Bantoes reeds verdwyn het. Hy wou ook weghardloop maar voor hy dit kon doen het 'n Bantoekonstabel hom bygedam en met 'n stok (vermoedelik 'n knuppel) teen sy skouer geslaan. Hy het voorts ook daarna verwys dat inwoners verhinder was om werktoe te gaan en verplig was om by die skare by die polisiestasie aan te sluit. Etlike ander inwoners het ook in min of meer dieselfde trant getuig.

98. Daar is, bv., die geval van Joshua Motha, 'n busbestuurder, wat reeds die Sondagmiddag gehoor het dat dwang toegepas sou word om inwoners te beweeg om aan die veldtog deel te neem. Hy getuig as volg daaroor:

"Sunday afternoon, while I was busy working with the bus, there were some people standing at the bus stop. They had some little notes - on that little paper there was written "P.A.C."

That is in the buttonhole? --- No; it was pinned, here, to the lapel. They said "We beg you, our people, tomorrow we must be just as one. We are not going to fight with the Europeans. We just want to ask them to alter this pass law because it is hard on us". They also said "I am

person running away from work, if he is going to work?" It was also said that if a person is woken up and he does not want to get up, he will be in trouble "because we will lay our hands on him". "Tomorrow we want all the men, including the women, to be at the same place because the women are also carrying passes". What caused me not to be against it but to go along with them, is because it was said "If you run away, you might get hurt".

Injured by whom? --- They only said "We will lay our hands on the one that does not want to".

Are those the people who spoke to you? --- I am talking about the people who were talking at the bus stop. In other words, I think they were organising.".

Voorts vertel hy dan ook dat hy gedurende die nag deur mans wakker gemaak was en dat hulle hom aangesê het om hulle na 'n plek buitekant Sharpeville te vergesel. Hulle het hom ook meegedeel dat hulle dit doen ten einde te verseker dat geen busse beskikbaar sou wees om mense na hulle werk te vervoer nie. Hy het hulle toe vergesel omdat hy gevrees het dat hy miskien aangerand sou word indien hy sou weier om te gaan. Hy en 'n aantal ander busbestuurders is toe na 'n plek buite Sharpeville geneem waar hulle as't ware tot dagbreek aangehou was. Hierdie groepie is toe aangesê om na die polisiestasie te gaan om te rapporteer waarom hulle nie werktoe gegaan het nie. Van die polisiestasie het hy huistoe gegaan, maar daar was hy nogmaals gedwing om na die polisiestasie terug te keer. 'n Groep jong Bantoes het hom meegedeel dat hy nie hier kon bly nie en dat indien hy dit doen hy deur 'n ongeluk of ander ernstige onheil getref kon word. Hy is toe weer terug na die polisiestasie. Hy het later besluit om weer huistoe te gaan, maar is voorgekeer en gedwing om na die polisiestasie

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terug te keer. Hy is ernstig verwond tydens die skietvoorval en het nog in die Baragwanath-hospitaal verkeer toe sy getuienis op 13 Mei 1960 gegee was.

99. 'n Lid van die Sharpeville-tak van die Pan Africanist Congress, Simon Lukas Masheledi, het ook getuienis gegee en gesê dat hy gedurende die nag van 20/21 Maart by die voorbereidings vir die veldtog behulpsaam was. Volgens hom sou dit die plan gewees het om groepe van ongeveer 20 bymekaar te maak, en dat daardie groepe hulle dan vir arrestasie sou aanmeld. Die mans sou almal na die sportgronde (wat naby die polisiestasie geleë is) gebring word en daar sou hulle dan in hierdie groepe verdeel word. Volgens hom sou al die leiers geweet het dat dit die plan is, en hy het dan ook verwag om Tsolo gedurende die nag by die sportgronde te ontmoet. Hierdie getuienis bots met die van Tsolo wat voorgegee het dat daar geen stappe gedoen sou word om die betogers by een plek bymekaar te bring nie en dat elkeen wat die veldtog gesteun het op eie houtjie na die polisiestasie sou gaan. Die waarskynlikhede dui daarop dat Masheledi se getuienis in hierdie verband aanvaar kan word en dat Tsolo s'n as vals verwerp moet word. Hy sê dat hulle in hierdie opset gedwarsboom was deur die knuppelstormlope wat die polisie onderneem het. Hy het toe die indruk gekry dat die hele plan misgeloop het en besluit om maar te gaan slaap. Onder kruisverhoor het hy erken dat sy volgelinge mense gedurende die nag wakker gemaak het, maar beslis ontken dat enige geweld of dreigemente van geweld gebruik was. Volgens sy begrip van die Pan Africanist Congress se voorgenome veldtog sou slegs mans daaraan deelneem. (Daar sal onthou word dat dit in die geval van die betogers van Boiphatong woonbuurt inderdaad die geval was). Met betrekking tot die knuppelstormloop wat hy ondervind het, was dit sy klagte dat die polisie onmiddellik

handelend opgetree het en hom nie 'n geleentheid wou gun om te verduidelik waarom hulle die byeenkoms roël nie. Hy is ook een van die getuies wat verklaar het dat die inwoners van Sharpeville en die polisie op goeie voet met mekaar verkeer het.

100. Nog 'n Bantoe burgerlike getuie na wie ek wil verwys in verband met die gebeure gedurende die nag van 20/21 Maar is Elias Lidia, 'n jong mode-ontwerper, wat in sy vry tyd ook skrywer is. Volgens sy getuienis was hy nie 'n lid van enige politieke organisasie nie, hoewel hy, as skrywer, in hulle optrede belang gestel het. Hy het die Sondagaand 'n byeenkoms wat deur ene Qwadi, 'n lid van die Pan Africanist Congress, toegespreek was, bygewoon. Die doel van hierdie vergadering, wat deur ongeveer 200 persone bygewoon was, was om die mense oor die Pan Africanist Congress se veldtog in te lig. Hierdie groep is ook deur die polisie uiteengejaag. In hierdie verband het Lidia getuig dat die polisie oorhaastig opgetree het en 'n minagtende houding teenoor die Bantoes geopenbaar het. Na die groep uiteengejaag is het Lidia huistoe gegaan.

101. Ter afsluiting van my verslag oor die gebeure te Sharpeville gedurende die nag van 20/21 Maart verwys ek na die getuienis van drie ander Bantoes - 'n speurderkonstabel (Edwin Litelu) wat te Sharpeville gestasioneer was, 'n sersant verbonde aan die Bantoesake Departement te Vereeniging (Christiaan Nxumalo) en 'n klerk in die kantoor van die Bantoe-kommissaris te Vereeniging (Bernard Xingwana). Hierdie getuies is almal inwoners van Sharpeville en was ook betrokke by die middernagtelike voorvalle.

102. Edwin Litelu sê dat iemand omstreeks 1.30 vm. op Maandag aan sy deur geklop het en hom versoek het om by die

groep Bantoes aan te sluit. Litelu het voorgegee dat hy sou aantrek maar het terug bedtoe gegaan toe die besoeker vertrek het. Na n rukkie het hierdie persoon teruggekeer en verneem waarom Litelu nog nie na buite gekom het nie. Litelu sê dat hy toe gevra het of hulle rondgaan om die polisie ook wakker te maak. Die persoon het toe gesê dat hy nie geweet het dat Litelu n polisie-amptenaar is nie en het weggegaan. Litelu het omstreeks 2.30 vm. na die polisiestasie gegaan om verslag te doen.

103. Christiaan Nxumalo was ook gedurende die nag gewek. Sy ondervinding het egter verskil van dié van Litelu. Na hy geweier het om sy huis te verlaat is hy meegedeel dat hy aangerand en sy vensterruite ingeslaan sou word. Hy het toe op aandrang van sy vrou by die groep aangesluit. Volgens hom het hierdie groep van huis tot huis gegaan, aan die deure geklop en geskop en die inwoners met dreigemente van aanranding aangesê om by hulle aan te sluit. Die polisie het hierdie groep ook uiteengejaag en Nxumalo het toe by die polisie aangesluit. Wanneer ek oor die gebeure in Seeiso-straat verslag doen sal ek weer na hierdie getuie verwys.

104. Bernard Xingwana het ook by die groep waarna sopas verwys is, aangesluit na teen sy deur en venster geskop en geslaan is. Toe hy verduidelik het dat hy n werknemer van die Bantoekommissaris is "en hom nie met hierdie tipe ding" wou inmeng nie, is hy meegedeel dat hy juis die soort persoon is wat saam met hulle moet gaan. Hy het dit dan ook gedoen. Na die groep uiteengejaag is het hy saam met Nxumalo by die polisie aangesluit.

105. Die getuienis oor die gebeure te Sharpeville gedurende die nag van 20/21 Maart oortuig my dat lede van die

Pan Africanist Congress en andere wat hulle met die doelstellings van daardie organisasie vereenselwig het, alles in die werk gestel het om so'n groot moontlike optog op die Maandag te verseker. Die prestige van die Pan Africanist Congress sowel as die voortsetting van die veldtog was klaarblyklik op die spel.

106. Ek meen dat dit aanvanklik die plan was dat slegs mans aan die optog sou deelneem. Dat Tsolo die moontlikheid dat vrouens en kinders ook mag aansluit ingesien het blyk duidelik uit sy eie getuienis. Afgesien van wat die opperste leiding van die Pan Africanist Congress nou ookal mag beoog het - en die pamflette waarna reeds verwys is, is die enigste getuienis op rekord in verband daarmee - blyk dit, wat Sharpeville betref, dat dit die uitgesproke opset was om aan die opdrag bevat in die laaste pamflet (Aanhangsel "F") gevolg te gee. Die manier van optrede word in paragrawe (B) tot en met (F) daarvan aangedui. Daar is geen getuienis dat ampsdraers of lede van die Sharpeville-tak van die Pan Africanist Congress openlik n beleid van geweldpleging tydens die veldtog in die vooruitsig gestel het nie. Daar is wel getuienis dat Tsolo en More teenoor die inwoners van optrede sonder geweld gepraat het.

107. Die getuienis oortuig my egter dat geweldpleging en dreigemente van geweldpleging nogtans gedurende die nag plaasgevind het. Daaroor bestaan daar nie die minste twyfel nie. Die aard van die geweldpleging en die omstandighede waaronder dit plaasgevind het blyk uit die getuienis waarna reeds verwys is. Vir sover die geweldpleging en dwang op die inwoners gemik was blyk dit waarskynlik te wees dat dit nogal veelal voorgekom het, alhoewel ek uit die aard van die saak hoegenaamd geen akkurate bevinding in hierdie verband kan doen nie.

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108. Die getuienis bewys ook dat die groepe betogers gedurende die nag 'n neiging tot verset teen die polisie geopenbaar het en ook later tot geweldpleging oorgegaan het. Daar is ook getuienis dat 'n aansienlike aantal betogers gedurende die nag wapens van verskeie aard gedra het en dat die meerderheid van hulle jong Bantoes was. Dit lyk geen twyfel nie dat onder hulle ook tsotsis was. By een geleentheid, toe die groep onder leierskap van Thomas More uiteengejaag is, het een of ander Bantoe met 'n vuurwapen geskiet.

109. Die ampsdraers van die Sharpeville-tak van die Pan Africanist Congress wat voor my getuig het beweer dat hulle nie geweldpleging beplan het nie en die gebruik van geweld steeds in die openbaar afgekeur het. Hoewel ek van oordeel is dat nóg Thomas More nóg Nyakane Tsolo bevredigende getuies is, is daar getuienis van ander bevredigende Bantoe getuies wat daarop dui dat hulle getuienis in hierdie verband aanvaar kan word. In sy getuienis ontken Tsolo dan ook dat sy organisasie verantwoordelik was vir die dwang wat gedurende die nag op inwoners toegepas is. Hy sê dat hy beoog het dat slegs vrywilligers aan die optog sou deelneem. Daar is geen getuienis wat die verwerping van sy getuienis in hierdie verband regverdig nie. Indien sy getuienis dan in hierdie verband aanvaar word, bewys dit dat onder diegene wat die veldtog gesteun het daar 'n aansienlike aantal persone was wat ander menings oor die manier van optrede daarop nagehou het.

110. Na my beskouing bewys die getuienis ook dat lede van die Pan Africanist Congress (onder meer More en Qwadi) by gebeure gedurende die nag betrokke was. Hoewel dit na my beskouing onwaarskynlik is, moet dit as 'n moontlikheid aanvaar word dat hulle of geen kennis van geweldpleging deur andere gehad het

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nie of altans nie besef het wat die omvang daarvan was nie. Wat wel tot hulle kennis moes deurgedring het is dat die polisie voornemens was om die wet en openbare orde te handhaaf en, indien nodig, om dit met die toepassing van geweld te doen. Dat hierdie optrede van die polisie gewelddadige verset kon uitlok is deur die gebeure gedurende die nag bewys. Tsolo se getuienis dat hy geen kennis gedra het van hierdie gebeure (en ook nie van die latere gebeure in Seeiso-straat nie) moet op grond van die getuienis en in die lig van waarskynlikhede verwerp word.

111. Teen dagbreek het die eerste fase van die gebeure tot 'n einde geloop. Gedurende die nag was die polisie en die inwoners van Sharpeville by voorvalle van geweldpleging betrokke. Oor 'n tydperk van 'n paar uur is 'n aantal groepe betogers uiteengeja en het die polisie, tydelik altans, sukses behaal.

DIE GEBEURE TE SEEISO-STRAAT.

112. Die volgende fase van die veldtog het teen dagbreek begin en die gebeure wat daarmee in verband staan het hoofsaaklik in en in die omgewing van Seeiso-straat plaasgevind. Ek het reeds daarna verwys dat dit die hoofstraat van Sharpeville is en dat die verlenging daarvan buite die woonbuurt na Vereeniging lei. Dit is ook die roete van die busdiens wat passasiers na en van Vereeniging vervoer. Dit is n breë teerstraat wat deur n eiland in twee aparte bane verdeel word. Dit is die aangewese roete van die ingang na die polisiestasie en die afstand langs daardie roete van die ingang na die polisiestasie is ongeveer 2 myl.

113. Teen ongeveer 5 vm. het die polisie nie meer groepe aangetref nie. Vanaf ongeveer daardie tyd het die werknemers, wat vermoedelik na hulle werk wou gaan, op straat verskyn. Party het op hulle fietse gery terwyl andere weer koers gekies het na die verskeie bushaltes in Seeiso-straat. Die groepies wat by bushaltes gewag het, het steeds aangegroei. Die busse het egter nie opgedaag nie. Die polisie het berig ontvang dat hierdie persone gemolesteer word en dat fietsryers aangerand word. Voornemende passasiers is meegedeel dat hulle by hulle terugkeer die aand aangerand sou word. Die vreesaanjaging en aanrandings was bedoel om werknemers te verhoed om na hulle werk te gaan en om hulle te dwing om aan die betoging wat later sou plaasvind deel te neem. Kaptein Cawood het afdelings polisie in Seeiso-straat opgestel met die doel om beskerming aan inwoners te verskaf.

114. Dit het egter spoedig geblyk dat geen busse sou opdaag nie. Ek het reeds verwys na die getuienis van n busbestuurder,

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Joshua Motha, oor die stappe wat gedurende die nag gedo
om te verhoed dat busse beskikbaar sou wees. Die superi
dent, Labuschagne, wat teen hierdie tyd nog saam met di
polisie was, het toe inligting ontvang dat geen Bantoe-
busbestuurders aan diens gekom het nie. Hy het toe gerë
dat blanke busbestuurders gebruik moes word en dat hulle
die ingang moes wag (vermoedelik om met polisie begeleidi
Sharpeville binne te gaan). Weens n misverstand het een
bus Sharpeville binnegegaan sonder om te wag en was toe
onder die klippe gesteek.

115. Etlike Bantoe getuies het vertel van hoe hulle vroeg
die oggend deur ander Bantoes verhoed was om werktoe te
gaan. Sommige kon eenvoudig nie gaan nie omdat vervoer nie
beskikbaar was nie. Andere is weer deur vreesaanjaging en
aanranding verhoed om Sharpeville te verlaat. Dit is
natuurlik vir my n onbegonne taak om self by benadering vas
te stel hoeveel van die werknemers op die Maandag by hulle
werk sou gewees het indien vervoer beskikbaar sou gewees het
en die polisie genoegsame beskerming teen vreesaanjaging en
aanranding sou kon verskaf het. U Eksellensie sal stellig
begryp dat baie persone na die voorval eerder sou vertel
dat hulle deur vreesaanjaging, e.d.m., verhoed is om na hulle
werk te gaan as om prontuit te erken dat hulle uit eie
beweging weggebly het. Nietemin, na my beskouing bewys die
getuienis bo enige twyfel dat talryke voorvalle van vrees-
aanjaging en aanranding plaasgevind het. Daarby moet onthou
word dat die beïnvloeding deur vreesaanjaging en aanranding
nie slegs tot die slagoffer beperk is nie; die wat dit
aanskou sien daarin die onheil wat hulle ook kon oorval
indien hulle pogings sou doen om werktoe te gaan.

116. In paragraaf 103 hierbo het ek na die middernagtelike
ondervinding van Christiaan Nxumalo verwys. Sy getuienis is

dat hy die môre omstreeks 7.15 met sy fiets op pad werktoe was. Hy was in polisie uniform gekleed. Terwyl hy op pad was het jong Bantoes tussen die ouderdom van 17 tot 20 jaar hom vry ernstig aangerand. Hy getuig as volg oor die voorval:

"At about 7.15, on my way to the office, on the road, in the location, at Sharpeville, I passed many people in the street. There were many people on my left-hand side and when I passed them they trew- they picked up stones and they threw stones at me.

Were you then in uniform, or in private clothes? --- I was in uniform, as I am now. I was wearing a helmet. Everybody could see I was a policeman. When I passed them on my bicycle, stones were thrown at me; some stones struck me in my back. The first stone struck me in my back. The second stone struck my bicycle wheel. I could hear the sound of it. Many stones were thrown at me. I then got off my bicycle and I picked up my bicycle, and lifted in up in order to avoid these stones, to protect myself with the bicycle. I tried to stop these stones with the bicycle. Afterwards, I lifted the bicycle right to my head in order to protect myself. I took it across my shoulders. At that stage, one of these men stabbed me in the back and through my shoulder. After I had been stabbed, I was struck again with stones. These were all youngsters. Then somebody came on the scene and warned them. They did not listen, and I was again struck with stones. My bicycle was completely damaged and I could not ride on it. After they had stopped throwing stones at me, I left my bicycle at the spot. I cannot say what stopped them from throwing stones at me any further.

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EXAMINATION CONTINUED: Do you know why these people did all these things to you? --- I did not do anything. I don't know why they threw stones at me. I did not say anything.

THE CHAIRMAN: When you say they were youngsters, what do you mean? --- They were of the age of about 17 years, to 20 years.".

Ek vermeld hierdie geval nie omdat dit tipies is van die aanrandings wat gepleeg is nie (dit is, sover ek my kan herinner, uitsonderlik wat die gebruik van 'n mes betref), maar omdat dit enersyds aandui waartoe party van die jong Bantoes bereid was om te gaan om mense te verhoed om na hulle werk te gaan en andersyds aandui dat selfs die polisie-uniform in sekere omstandighede geen beskerming gebied het nie.

117. Klipgooiery het veelal plaasgevind, en was nie tot polisievoertuie beperk nie. Daar is, bv., die getuienis van 'n inwoner van Sharpeville, Paul Mjambila, wat die oggend tussen 8 en 9 uur met sy motorkar op pad na sy werk was. In Seeiso-straat, naby die uitgang uit die woonbuurt, is sy motorkar met klippe bestook en beskadig. So ook is die motorkar van 'n blanke burgerlike, ene Van Wyk, wat Sharpeville omstreeks 8.30 vm. binnegery het om na werknemers te soek, onder die klippe gesteek en skade ten bedrae van ongeveer £96 veroorsaak.

118. Ek het hierbo daarna verwys dat kaptein Cawood klein afdelings polisie by bushaltes in Seeiso-straat opgestel het. Die skare in Seeiso-straat het geleidelik aangegroei. Teen omtrent 7 vm. het 'n betreklike groot skare wat uit mans, vrouens en kinders bestaan het in Seeiso-straat in die omgewing van die hostel vir ongetroude mans en die biersaal (wat by die ingang na Sharpeville geleë is) byeengekom. Die polisie het

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die indruk gekry dat hulle in die rigting van Vereeniging beweeg. Opdrag is toe gegee dat al die polisie-amptenare na die administratiewe kantore by die ingang moes gaan. Daar is hulle oor die pad opgestel om die skare te stuit indien hulle na Vereeniging wou marsjeer. Volgens die waarnemings van kaptein Cawood en die getuie Labuschagne sou daar teen 7.30 vm. van 5,000 tot 7,000 Bantoes gewees het. (Ek noem die skattings sonder om te aanvaar dat dit noodwendig akkuraat is. Dit dui egter daarop dat die grootte van die skare eerder op duisende as op honderde gestel moet word). Dit was opgelet dat van die mans wapens gedra het en dat etlike hope klippe opgestapel is. Die skare was toe ook luidrugtig en verskeie dreigemente is die polisie toegeslinger. Klippe is ook gegooi. Daar was toe ongeveer 20 blanke en 37 Bantoe polisie aanwesig. Daar is besluit dat die posisie ernstig was en traangasbomme is van die Vereeniging Polisiestasie verkry.

119. Intussen (ongeveer 6.30 vm.) het kaptein Willers en sersant Wessels van die Veiligheidsstaf by die ingang na Sharpeville aangekom. Volgens laasgenoemde se skatting was daar toe n skare van nagenoeg 5,000 in Seeiso-straat en die onmiddellike omgewing. Hy het twee Bantoes (blykbaar lede van die Pan Africanist Congress) wat besonder bedrywig en aan die spits van die skare was aangehou en ondervra. Hulle is daarna in n polisievoertuig aangehou.

120. Pogings is gedoen om die skare op n vreedsame manier terug te druk. Die getuie Labuschagne het met hulle gepraat, aangesien hy baie van die Bantoes goed geken het. Sy pogings was egter verydel toe ongeveer 500 van die inwoners van die hostel by die skare aangesluit het. Die skare was nou besonder luidrugtig, en het ook vasgestaan. In sy getuienis

verwys kaptein Cawood ook na 'n groep van ongeveer 500 jong Bantoes wat soos 'n regiment in Seeiso-straat op en af gemarsjeer het. Die skare het nog steeds aangegroei en kaptein Cawood was bevrees dat die Bantoes later tussen die polisie kon indring en dat die posisie dan besonder ernstig sou word. Hy het toe besluit om traangasbomme te gebruik en 5 daarvan tussen die voorstes onder die skare gegooi. Die skare het toe 'n entjie teruggeval maar toe weer vasgestaan. Kaptein Cawood skat dat daar toe ongeveer 10,000 Bantoes in daardie gedeelte van Seeiso-straat was. Daarteenoor skat Labuschagne dat daar toe ongeveer 5,000 was. Ek meen dat albei eerlike skattings doen. Hoe dit ookal sy, die Bantoes was daar in hulle duisende, en die aantal en hulle gedrag was sodanig dat dit kaptein Cawood kommer verskaf het - en ek het die indruk gekry dat daar by hom nie 'n gebrek aan moed is nie. Op hierdie stadium - omstreeks 8 vm. - het hy na Vanderbijl-park vertrek. Oor sy optrede daar het ek reeds verslag gedoen.

121. Voor ek verder oor die gebeure in Seeiso-straat verslag doen, is dit vanpas om een en ander te stel oor die posisie by die polisiestasie. Om 5 vm. was slegs die Bantoe polisie aan diens. Sersant Moses Nkosi was toe in bevel. Hy het omstreeks 4.45 vm. aan diens gegaan. Hoewel hy nie seker was van die tyd nie, het hy getuig dat Tsolo ongeveer 8 vm. of kort daarna by die polisiestasie aangekom het en hom gevra het om al die mense wat daar aanwesig was in die selle op te sluit aangesien hulle nie hulle bewysboeke by hulle gehad het nie. Hy sê ook dat Bantoes toe reeds die polisiestasie omsingel het en dat dit hom van stryk gebring het. Dan getuig hy voorts:

"I said to him, "But the Europeans are not here". I said "I'll send some policemen to go and call them". I called two Non-European Police. I said to him, "I am afraid I cannot send the Police away, because there is a big crowd". He said he would give me some escorts. Then I sent the Police. He then escorted them until they came out of the grounds, and then they left.

Why did you not want to send some of your men away? --- I was confused by the crowd because there was no telephone to communicate with these European Police and I did not know what to do.

Why did the crowd confuse you? --- They were right round the Police Station. There were many of them. They were right round the Police Station.

But what did they do? --- They were just standing. They wanted me to lock them up.

Was Tsolo the only one who spoke to you? --- Yes; he was the only one.".

Speurderkonstabel Edwin Litelu, na wie ek reeds verwys het, sê dat persone eers vanaf omstreeks 8 vm. by die polisiestasie begin vergader het. Speurderkonstabel Sidwell Kele getuig dat hy die oggend omstreeks 8 vm. op pad na die polisiestasie was en die skare in Seeiso-straat gesien het. Hy het een van die leiers, Manuel Teketsi geken. Hy het n paar minute na 8 uur by die polisiestasie aangekom. Volgens sy getuienis sou die Bantoes eers vanaf omstreeks 8.30 vm. by die polisiestasie begin vergader het. Thomas More gee voor dat hy eers om 6 uur vm. opgestaan het en geen kennis daarvan gedra het of die inwoners die vorige aand aangesê was om by die polisiestasie te vergader nie. Van die gebeure in Seeiso-straat het hy niks geweet nie. Hy getuig ook dat hy omstreeks 7 vm. na

die polisiestasie gegaan het om die aanwesiges aldaar te beheer. Hy sê dat Tsolo omstreeks 8 vm. opgedaag het en dat daar toe reeds n groot skare was. Nyakane Tsolo het ook getuig en gesê dat hy omstreeks 6 vm. opgestaan het en ongeveer 7-7.30 vm. by die polisiestasie aangekom het. Daar het hy versoek dat hy en die ander Bantoes wat aanwesig was gearresteer moet word. Hy het ook voorgegee dat hy nie bewus was van wat die vorige nag en gedurende die môre gebeur het nie. Wat hy wel gesê het is dat hy gehoor het dat Bantoes deur die polisie aangerand was. Daar moet onthou word dat Tsolo in sy getuienis gesê het dat die Pan Africanist Congress se tak te Sharpeville self geen stappe gedoen het om reëlings te tref vir die byeenkoms nie, en dat daar geen plan was in verband met die opmars na die polisiestasie nie. Volgens hom het almal geweet dat hulle by die polisiestasie moes ontmoet. Daar was geen verstandhouding dat die betogers eers elders sou ontmoet en dan nie die polisiestasie marsjeer nie. Indien ek sy getuienis reg verstaan was hy nie in Seeiso-straat nie en het hy ook nie kennis gedra van wat daar in Seeiso-straat gebeur het nie.

122. Tsolo se getuienis in hierdie verband kan kwalik met die van n ander lid van die Pan Africanist Congress, Moses Smit, versoen word. Smit, wat prontuit erken het dat die veldtog deur die Pan Africanist Congress gereël was, het getuig dat hy een van die persone was wat aangesê was om met die leiding van die optog behulpsaam te wees. Hy sê dat hy nie die vorige nag in Sharpeville was nie, maar dat hy omstreeks 6 vm. teruggekeer het en by n groep, wat in n gebied (sogenaamd "site and service", erf en diensskema en ook Zensele) ten weste van die polisiestasie vergader het, aangesluit het. Qwade, na wie ek reeds verw het in verband met byeenkomste wat gedurende die nag gehou is, was

ook daar, en het hom meegedeel dat hulle na n gebied ten ooste van die polisiestasie (sg. Putso-stene - omdat die huise van grys bakstene gebou is) moes gaan om n ander groep onder die leier (Tsolo) te ontmoet sodat die groepe saam na die polisiestasie kon marsjeer. Smit sê dat hulle toe in daardie rigting vertrek het.en Tsolo en sy groep ontmoet het waar hulle in Seeiso-straat vanaf die rigting van Putso-stene aangestap gekom het. Die twee groepe het omstreeks 9 vm. bymekaar aangesluit. Tsolo het die twee groepe toe oor die veldtog toegespreek, en ook, onder meer, gesê dat daar nie geweld gebruik sal word nie. Na hy die skare toegespreek het. het hulle na die polisiestasie gegaan waar hulle omstreeks 10 vm. aangekom het.

123. Ek het reeds hierbo verwys na die getuienis van Mashole waarin hy sy idee van hoe die optog gereël moes word, gegee het. Volgens hom sou hy gaan slaap het na die polisie die groep waaronder hy hom bevind het uiteengejaag het. Hy het die volgende oggend omstreeks 7 uur opgestaan en na Seeiso-straat gegaan, waar hy n groep onder David Ramodebe en ander leiers aangetref het. (In sy getuienis verwys hy na die groep as n "Pan Africanist group"). Indien ek sy getuienis reg verstaan het hy die groep in Seeiso-straat naby die uitgang van Sharpeville ontmoet. Hierdie getuie tref n verskil tussen die "Pan Africanist" groep en die res van die skare in Seeiso-straat. Volgens hom sou die res van die skare uit belangstellendes en nuuskieriges bestaan het. Die plan was eintlik dat die "Pan Africanists" hulle vir arrestasie aanmeld, hoewel dit andere vrygestaan het om hulle voorbeeld na te volg. Indien sy getuienis dat hy geen polisie in Seeiso-straat naby die ingang gesien het nie waar is volg na my beskouing dat hy heelwat vroeër as 7 uur opgestaan

en langer in Seeiso-straat vertoef het as wat uit sy getuienis blyk die geval te gewees het. Hoe dit ookal sy, van daar is hy toe na die polisiestasie waar hy Tsolo ontmoet het. Tsolo het hom toe meegedeel dat sersant Nkosi geweier het om enigiemand te arresteer.

124. Elias Lidia, na wie ek ook reeds hierbo verwys het, getuig ook oor die gebeure in Seeiso-straat. Hy sê dat toe hy die môre omstreeks 6.30 opgestaan het, het hy van gesprek tussen ander Bantoes afgelei dat mense verhoed word om na hulle werk te gaan. Na hy aangetrek het het hy na die bus-terminus in Seeiso-straat gegaan - dit was toe ongeveer 7 uur. Hy het opgelet dat daar meer mense as gewoonlik in die straat loop, maar nie die indruk gekry dat daar n skare byeengekom het nie. Na n half-uur is hy weer terug huistoe. Ongeveer 8 uur het hy besluit om weer na Seeiso-straat te gaan. Volgens hom het hy toe gesien dat Bantoes by die polisiestasie vergader het - sy skatting was dat daar toe n skare van ongeveer 50 was. Toe hy in Seeiso-straat aankom het hy gesien dat daar n skare van sowat 500 byeengekom het. Hy het blykbaar nie lank daar vertoef nie aangesien hy getuig dat hy om 8 uur by die polisiestasie aangekom het. Hy het toe sy fiets huistoe geneem (hy woon betreklik naby die polisiestasie) en weer na die polisiestasie teruggekeer. Teen daardie tyd het die skare vinnig begin aangroei. Na my beskouing is Lidia se vermoë om die grootte van skares te skat nie te betroubaar nie.

125. Na my beskouing bewys die getuienis dat dit waarskynlik is dat die skare eers tussen 8 en 9 vm. by die polisiestasie begin vergader het, en dat nog Tsolo nog More voor daardie tyd daar was. Afgesien van die direkte getuienis van Moses Smit, is dit baie waarskynlik dat Tsolo hom in Seeiso-straat b[illegible]

het voor hy na die polisiestasie gegaan het en dat hy, ondanks sy ontkenning, wel bewus was van wat daar gebeur het. Ek oorweeg later die vraag of dit aanvanklik die plan was om na die polisiestasie te Vereeniging te gaan en of daar eers van hierdie plan afgesien is toe die polisie die betogers naby die uitgang gestuit het.

126. Ek het hierbo daarna verwys dat majoor Van Zyl omstreeks 7.30 vm., na n besoek aan die Vereeniging Polisiestasie, na Seeiso-straat teruggekeer het en by aankoms gevind het dat kaptein Cawood reeds traangasbomme gebruik het om die skare terug te dryf. Kaptein Cawood is ook kort daarna weg na Vanderbijlpark. Die skare was besonder luiddrugtig en opgewonde. Baie van hulle was met kieries en klippe bewapen. Volgens majoor Van Zyl het die jonger Bantoes die meeste bedrywigheid aan die dag gelê. Hoewel hy moontlik oordrewe taal in sy getuienis gebruik het blyk dit nogtans uit sy optrede dat hy sake in n ernstige lig beskou het. Die gesindheid van die skare was beslis vyandig. Dat dit die geval was blyk ook uit ander getuienis wat ek as betroubaar beskou. Traangasbomme was reeds sonder enige werklike sukses gebruik. Soos te wagte was, het die skare aangegroei. Majoor Van Zyl het toe besluit dat hy nie kon toelaat dat die posisie verder versleg nie. Hy het in die rigting van die skare gestap en verduidelik dat hy hulle 5 minute tyd gee om uitmekaar te gaan. Die skare het hierdie waarskuwing met tekens van groter opgewondenheid en uitjouery begroet. Voor die 5 minute verstryk het, het hy weer na die skare gestap en hulle versoek om uiteen te gaan. Hieroor getuig hy as volg:

"Ek was nie van plan, en ek wou nie - ten alle koste wou ek enige geweld vermy, en voor die vyf minute verstreke was, het ek alleen opgestap tot voor by hulle en daar het ek met

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hulle leiers gepraat en ek het aan hulle gesê, "Kêrels, julle gaan seerkry, miskien, en ons gaan miskien seerkry. Gaan asseblief huistoe; ek vra julle mooi. Asseblief!" Ek was uitgejou en ek was radeloos. Ek het om n ander gedagte gedink en ek het gesê, "Wat is die moeilikheid?" Toe kom hulle leiers na vorentoe, en hulle sê vir my, "Daardie twee man wat jy gevang het" - hulle het verwys na twee gevangenes wat in een van die oprukwaentjies gesit het - "Ons wil hulle hê". Ek sê toe, "Wel, hulle kan julle nie kry nie". Toe sê hulle, "Wel, dan sal ons hulle self vat". Ek het agteruit gestaan. Dit was kwart voor, en ek het gesê "Maak skoon".".

127. n Knuppelstormloop is toe deur ongeveer 20 blanke en 40 Bantoe polisie onderneem. Met die afsit is hulle onder die klippe gesteek. Die betogers het teruggeval en in die systrate af gehardloop. Van daar het hulle die polisie met klippe bestook. Daar is ook getuienis dat daar enkele skote met vuurwapens van die kant van die betogers geskiet was. Ondanks n vermaning van majoor Van Zyl dat vuurwapens nie gebruik moes word nie blyk dit dat die polisie ook geskiet het. Niemand is egter tydens hierdie skietvoorval gedood of verwond nie. Dat die klipgooiery betreklike ernstige afmetings aangeneem het blyk uit die getuienis van verskeie getuies. Konstabel Coetzee getuig as volg oor wat hom te beurt geval het:

"Julle het toe n knuppelstormloop uitgevoer? --- Uitgevoer, ja. Party het stilgestaan, maar ons het hulle gejaag en hulle het uiteengespat. Ons het hulle gejaag tot by die eerste straat, waar die huise begin. Daar het ons opgehou en weer op die voertuie geklim, maar ons het net op die voertuie geklim toe kom daar n klippereën op ons af van die huise se kant af. Ons was in die voorste

voertuig, en dit was oop gewees, en ons kon nie wegduik vir die klippe nie; hulle het al die klippe op die voertuig gegooi en ons moes afspring en probeer keer waar ons kon. Ons het aan gehardloop tot waar ek n klip op my kop gekry het. Dit het my buite aksie gestel vir n paar minute - ek weet nie hoe lank nie.

Wat was die omstandighede dat jy n klip op jou kop gekry het? --- Die Bantoes het na die vragmotor gegooi, soos ek gesê het - die ligte vragmotortjie. Dit was te gevaarlik om op die vragmotor te bly; dit was geweldig gewees. Ons het af gespring om te probeer skuiling kry by die huise. Maar n klip het my op die hoof gevang en ek was buite aksie gestel.

Was dit nadat jy afgeklim het, van die vragmotor? --- Nadat ek afgespring het, toe ek by die huise kom.

DIE VOORSITTER: Jy sê jy is buite aksie gestel; wat bedoel dit - het dit jou bewusteloos gemaak? --- Dit het op my kop geval en ek het net swart gesien en neergeval. Toe het iemand my opgehelp. Ek kan nie onthou wie dit was nie.

VERHOOR HERVAT: Sê jy dat jy dat jy bewusteloos was, of bedwelmd was, of wat was dit? --- Ek sal liewers sê ek was bedwelmd gewees; ek was nie heeltemal uit gewees nie.

Wanneer het jy weer tot jou volle bewussyn teruggekeer? --- Nadat iemand my aan die arm gevat het; ek kan onthou dat iemand my aan die arm op gehelp het en gesê het "Kom seun, hier's gevaar".

Is jy na die hospitaal geneem? --- Daarna is ek na die hospitaal geneem.

Was jy daar aangehou vir behandeling? --- Ja; ek is steke toegedien, en kwart-voor-nege is ek weer op na Sharpeville, aangesien daar net Vereeniging Polisie daar

was en ek wou hulle nie in die steek los daar nie.".

Dit blyk dat hy een skoot met sy .303 geweer geskiet het na hy getref is, maar dat hy in die lug geskiet het. Daar is ook getuienis dat toe hy neergestort het etlike Bantoes op hom afgestorm het en dat nog meer skote toe deur ander lede van die polisie afgevuur was. Origens blyk dit dat daar in die rigting van huise geskiet was omdat dit gemeen was dat Bantoes vanuit daardie rigting gevuur het. Geen Bantoes met gewere is egter gesien nie. Majoor Van Zyl het sy opdrag dat vuurwapens nie gebruik moet word nie herhaal. Daarna was daar ook nie meer geskiet nie.

128. Die skare is na ongeveer n halfuur vir n paar honderd treë in Seeiso-straat teruggedruk, en die polisie het teenoor hulle stelling ingeneem. Die getalle het vermeerder en die Bantoes het al hoe meer uittartend en woedend geword. Aldus majoor Van Zyl. Hy het besluit dat hy versterkings moes aanvra en het na Vereeniging gegaan. (Daar was toe blykbaar nog geen telefoonverbinding tussen Sharpeville en Vereeniging nie). By sy terugkeer het hy vasgestel dat die skare in Seeiso-straat weer aansienlik vermeerder het - volgens skatting sou daar etlike duisende gewees het. Dit sou nou die posisie omstreeks 10 vm. gewees het.

129. Ongeveer 10.20 vm. het kaptein Coetzee saam met 13 blanke en 6 Bantoe polisie opgedaag en hom by majoor Van Zyl aangemeld. Hy het toe ook in Seeiso-straat stelling ingeneem. By die ingang het hy reeds gewaar dat daar n groot skare (tussen 8,000 en 10,000) in Seeiso-straat was. Hy het sy manne opdrag gegee om hulle gewere te laai. Van daar het hy toe verder gery en by majoor Van Zyl aangesluit. Laasgenoemde het besluit om die Adjunk-kommissaris van Polisie te bel en hom oor die posisie in te lig. Sy getuienis oor wat

hy toe gedoen het, lui as volg:

"Ek het my weer na die telefoon gehaas. Soos ek u gesê het van die begin, was my hele doel om so min geweld te gebruik as moontlik, en ek het die Adjunk-kommissaris gevra, - kol. Lemmer - ek het toe alreeds die portret gehad van die feit dat daar duisend opmarsjeer in Vanderbijlpark en ook te Evaton, en die posisie waarin Vereeniging geplaas wat in verhouding met die drie plekke, sou dus uiters gevaarlik gewees het as hulle die Polisie oorweldig het. Ek het die Adjunk gevra om vir my vliegtuie te stuur om oor die mense te duik met die hoop dat dit hulle sal afskrik of tydelik sal uit aksie bring. Wat ek by "uit aksie bring" meen, is dit: Dat dit hulle sal - hulle humeur vir n tyd miskien kalmeer. Ek het sonder toestemming, teen my instruksies, die skietkommando op been gebring in Vereeniging. Ek het hulle laat bystaan in die aanklagkantoor met die doel, as daar iets gebeur dan is daar iemand, hier, wat iets kan doen. Ek het geglo dat daar sal n bloedbad wees. Ek het geen ander uitweg gesien nie. Dit het vir my so gelyk en ek is daar oortuig van, dit sou gebeur het.".

130. Kaptein Van der Linde het omstreeks 11.15 vm. by Sharpeville aangekom. Hy was in bevel van 2 Saracen gewapende troepedraers wat elkeen n bemanning van 5 gehad het. Volgens hom was daar toe n groot skare in Seeiso-straat. Hy het majoor Van Zyl opgelaai en na die polisiestasie geneem. Terwyl hulle op pad was het vliegtuie oor die polisiestasie gevlieg. Hy het ook opgelet dat groot getalle Bantoes besig was om in Seeiso-straat in die rigting van die polisiestasie te marsjeer. Hy het die een Saracen binne die terrein om die polisiestasie opgestel. Hy en majoor Van Zyl

is met die ander Saracen terug na die administrasiegebou by die ingang. In sy getuienis verwys majoor Van Zyl ook na die feit dat die skare teen omtrent daardie tyd na die polisiestasie beweeg het. Kaptein Coetzee het dit ook opgelet.

131. Die getuie Labuschagne, (die Superintendent van Sharpeville) wat deurentyd by die polisie in Seeiso-straat was, getuig oor wat daartoe aanleiding gegee het dat die skare in Seeiso-straat feitlik uit eie beweging omgedraai en in die rigting van die polisiestasie beweeg het. In sy getuienis verwys hy daarna dat n klein vliegtuig (dit is klaarblyklik die vliegtuig waaruit die lugfoto van die polisiestasie - Aanhangsel "I" - geneem is) oor Sharpeville gevlieg het. Volgens hom sou dit toe tussen 11 en 11.30 vm. gewees het. Later - in kruisverhoor - het hy gesê dat die vliegtuig voor 11 uur oor die polisiestasie gevlieg het. Dit is egter duidelik dat sy eerste verwysing na die vlug van die vliegtuig die tyd as tussen 11 en 11.30 vm. aangedui het. (Dit is miskien n geleë tyd om aan te dui dat meeste van die getuies onbetroubaar in verband met hulle tydsberekenings is). Hoe dit ookal sy, Labuschagne se getuienis is dat omtrent dieselfde tyd as wat majoor Van Zyl saam met kaptein Van der Linde na die polisiestasie gegaan het, hy saam met kaptein Coetzee na Zwane-straat gegaan het. Voor hierdie gebeure het die skare begin beweeg in die rigting van die polisiestasie. Terwyl hulle besig was om dit te doen het majoor Van Zyl en kaptein Van der Linde tussen hulle deur gery. Volgens Labuschagne het n lid van die Uitvoerende Komitee van die Sharpeville-tak van die Pan Africanist Congress, Manuel Teketsi, na vore gekom, sy hande voor majoor Van Zyl se gesig geswaai en daarna, toe majoor Van Zyl se rug op hom gekeer was, aan die skare beduie het dat hulle

hom na die polisiestasie moes volg. In sy getuienis stel hy dit as volg:

"Een van die Uitvoerende Komiteelede van die Pan Africanist Congress, Manuel Teketsi, het uitgekom tussen die ander. Dit is hy wat na majoor Van Zyl gegaan het en sy hande so voor majoor Van Zyl se gesig geswaai het; en toe die majoor omdraai, met sy rug na hom toe, toe wys hy vir die skare, 'Come; come; Come, let us march to the Police Station.' Toe die Saracens ingekom het, het hulle omgedraai en teruggemarsjeer Polisiestasie-toe.".

Majoor Van Zyl verwys nie in sy getuienis na hierdie voorval nie. Moontlik het hy dit nie waargeneem nie omdat hy toe sy rug op die skare gekeer gehad het. Dit is ook moontlik dat dit hom ontgaan het. Indien U Eksellensie die rekord sou nagaan sou U wel oplet hoe dikwels dit gebeur dat getuies wat oor n voorval getuienis gee met mekaar verskil in verband met die besonderhede wat daarop betrekking het. Ek is oortuig dat n voorval van die aard waarvan Labuschagne verwys wel plaasgevind het. Ek verwys hieronder na ander getuienis wat daarop betrekking het.

132. Nog n opsig waarin Labuschagne se getuienis sterk aangeval is, het betrekking op n waarneming wat hy op n sekere tydstip sou gedoen het in verband met die skare in Seeisostraat, nl., dat hulle vanaf die skole tot by die gemeenskapsaal (dit is n gebou aan die westekant van die polisiestasie) "een blok vas gestaan" het. Sy getuienis is klaarblyklik vatbaar vir n vertolking dat hy hierdie waarneming gedoen het toe die vliegtuig daar was, dit is ongeveer 11 vm., en kort voor kaptein Van der Linde aangekom het (dit is nagenoeg 11.15 vm.). Baie getuies toon n neiging om gebeure wat inderdaad nie onmiddellik na mekaar plaasgevind het nie inmekaar

te skuif wanneer hulle daaroor getuienis gee.

133. Dit is van belang om, indien moontlik, helderheid oor hierdie getuienis te kry, aangesien dit betrekking het op die geloofwaardigheid van Labuschagne asook die waarskynlikhede wat oorweeg moet word waar die getuienis oor die omvang van die skare by die polisiestasie in oënskou geneem word. Indien die lugfoto (Aanhangsel "I") geneem was op n tydstip toe Labuschagne die groot skare in Seeiso-straat vanaf die skoolterrein tot die gemeenskapssaal sou gesien het dan is daar (soos advokaat Kentridge dit aan die getuie gestel het) "iewers iets verkeerd". Die grootste gedeelte van dié deel van Seeiso-straat waarop Labuschagne se getuienis betrekking het verskyn op die lugfoto. In n oostelike rigting (d.w.s. in die rigting van waar Labuschagne sy waarneming gedoen het) vervaag die detail aansienlik, maar in die gedeelte van die straat wat aan die noordelike en noordwestelike kant van die polisiestasie sigbaar is, is daar klaarblyklik nie n skare nie.

134. n Fotograaf van "The Star" (n koerant wat in Johannesburg gedruk en uitgegee word) het getuig dat hy die betrokke lugfoto, asook andere wat as bewysstukke ingedien is, geneem het. In sy getuienis het hy verklaar dat hy die foto kort na 11 uur vm. geneem het. Sy aandag is toe bepaal by n skriftelike verklaring wat hy op 8 April aan die polisie verstrek het waarin hy die tyd as kort voor 11 uur vm. aangedui het. In kruisverhoor het advokaat Kentridge dit aan hom gestel dat een van sy lugfotos op die middag van 21 Maart in "The Star" afgedruk was en dat die opskrif daarna verwys dat dit kort voor 12 uur middag geneem was. Volgens getuienis wat die lugfotos self verskaf (nl., die aanwesigheid van luitenant Visser se voertuie en die afwesigheid van kaptein Van der Linde se Saracen wat hy op die perseel opgestel het) blyk dit dat die

fotos geneem was na luitenant Visser by die polisiestasie aangekom het (wat by benadering tussen 10.30 en 11 uur vm. was) maar voor kaptein Van der Linde daar aangekom het (wat by benadering tussen 11.15 en 11.45 vm. daar was). Daar bestaan geen rede om Von Below se eerlikheid in twyfel te trek nie, en sy skatting dat die fotos omstreeks 11 vm. geneem was kan aanvaar word.

135. Kaptein Coetzee getuig dat toe hy Visser opdrag gegee het om na die polisiestasie te gaan hy reeds opgelet het dat die skare in Seeiso-straat besig was om terug te beweeg en dat die aantal al minder word. Hy het gemeen dat hulle huistoe gaan. Daarna het hy 'n boodskap van die polisiestasie ontvang dat die posisie daar ernstig is en dat versterkings nodig is. Dit is na aanleiding van hierdie boodskap dat hy sy opdrag aan Visser gegee het.

136. In sy getuienis verwys kaptein Van der Linde daarna dat toe hy saam met majoor Van Zyl op pad na die polisiestasie was, hy opgelet het dat groot groepe Bantoes aan albei kante van Seeiso-straat in die rigting van die polisiestasie beweeg het. Daar was teen hierdie tyd geen skare in die straat self nie, en het die meerderheid van die Bantoes wat vroeër daar was reeds vertrek.

137. Ek keer nou terug na die getuienis van Labuschagne. Daar sal onthou word dat 'n skare van etlike duisende wat in die omgewing van die ingang na Sharpeville was omstreeks 7.45 vm. uiteengejaag is. Die oorgrote meerderheid van hierdie skare het in sy systrate ingevlug en die polisie het hulle agtervolg. Die polisie het stadig in Seeiso-straat in die rigting van die polisiestasie beweeg. Labuschagne het by die polisie aangesluit, en saam met hulle beweeg. Hy getuig as volg in verband hiermee:

"Daar het ons stadig beweeg. Maj. van Zyl het aan die linkerkant, op die sypaadjie, geloop en ek voor - mnr. van Zyl op die regterkant; ekskuus - en ek voor aan die linkerkant, op die sypaadjie. Ek het van huis tot huis met die Bantoes gepraat en gevra dat hulle asseblief in hul huise en hul agterplase moes bly, omrede hulle toe in groot groepe in elke straat saamgedrom het. Ek het een van die Adviserende Raadslede gekry en hom geroep, en hom gevra om ons te help, en hy het ook met die mense gepraat. Aan die Suidekant, aan my kant, het die mense teruggeval tussen die huise in, maar aan die regterkant, aan die kant van maj. van Zyl en die Polisie, het hulle nie teruggeval nie. Ons het stadig beweeg, tot by die eerste skool - dit is die opening, nou nog in Seeiso-straat.

Dit is nou die volgende groot opening? --- Die volgende groot opening. Toe ons by dié opening kom, het ek gesien dat daar 'n groot skare Bantoes van voor na die Polisie marsjeer - dat daar 'n groot skare Bantoes van die Polisie-stasie se kant, na die paar Polisie in die straat marsjeer. Hulle het teenoor mekaar opgekom. Maj. van Zyl het die Polisie gevra om te staan. Die Polisie het daar gestaan vir ongeveer 'n halfuur.

Die nuwe groep kom nou in Seeiso-straat af? --- In Seeiso-straat af, in die rigting van die Polisie.

Julle het nou aan julle agterkant...? --- Agter is Bantoes, aan beide kante is die systrate vol Bantoes, en hier kom 'n groot klomp Bantoes van voor.

'n Bietjie vroeër het julle die Bantoeskare nou gekeer, teruggedryf? --- Dit was voor die hostel, die enkel-kwartiere, ja.

Maar is julle tussen hulle deur? --- Ja.

Wat was die idee; was die moontlikheid toe nie nog daar dat hulle sou verder aangaan, weer op pad na Vereeniging-toe nie? --- Nee; dit het vir my gelyk of maj. van Zyl bekommerd was oor die Polisiestasie binne die lokasie, en ek het gehoor dat hy aan die Polisie gesê het, "Ons moet probeer deurgaan na die Polisiestasie-toe." Nou kom ons te staan voor 'n skare wat van voor af kom? --- Van voor, van agter, en aan beide kante.".

138. Toe die getuie gevra is om aan te dui hoe laat dit toe was het hy die tyd op 11-uur gestel. Dan verwys hy na 'n voorval toe "die direkteur, mnr. Ferreira, mnr. Van der Walt en ander manse opgedaag het met 'n kar". Op pad van die ingang na die plek waar die polisie (en Labuschagne) toe was is die motorkar met klippe bestook. Ek meen dat hy hier verwys na die geleentheid toe die getuie Van Wyk se motorkar beskadig is. (Mnr Van der Walt was in die motorkar by daardie geleentheid). Ferreira stel die tyd op "9-uur, 10-uur, daar rond". Die eienaar Van Wyk het getuienis gegee en hy het die tyd op omtrent 8.30 vm. gestel. Hy het ook vertel dat hulle van die administrasiegebou by die ingang tot waar die polisie was gery het en dat die kar met klippe bestook was. Sy skatting was dat daar 'n skare van omtrent 1,000 om die polisie was. Hy kon egter nie waarneem hoe ver die skare gestrek het nie. Dit blyk dus dat Labuschagne se tydsberekening heelwaarskynlik nie te betroubaar is nie.

139. In sy getuienis verwys hy dan voorts daarna dat die skare toe baie luiddragtig was en ook die polisie aanhoudend uitgetart het. Hy sê ook dat daar toe 20 na 25 blanke en ongeveer 20 Bantoe polisie was. Op daardie tydstip het majoor Van Zyl aan hom gesê dat hy bekommerd voel en dat versterkings nodig is. Dan verwys hy na die aankoms van

kaptein Coetzee. Laasgenoemde sê in sy getuienis dat hy omstreeks 10.20 vm. by Sharpeville aangekom het. Labuschagne se getuienis oor die waarneming van die skare in Seeiso-straat volg onmiddellik op sy verwysing na kaptein Coetzee se aankoms. Dit lui as volg:

"Daar het toe versterkings opgedaag - ek dink twee vragmotors vol, met Johannesburg registrasienommers. Die kaptein het uitgeklim en hy het na my en maj. van Zyl gekom, en die Polisie het die saak bespreek.

Weet u wie die kaptein was? --- Ek dink kapt. Coetzee. Maj. van Zyl het daar instruksies gegee en gesê daar sal twee saracens opdaag en ons moes wag totdat die saracens opdaag. Iemand het aan my gesê dat ek op n vragmotor se dak moes klim en kyk in die rigting van die Gemeenskapsaal. Ek het opgeklim, hier tussen die skole, en die Bantoes het een blok vas gestaan, van die skole tot by die Gemeenskap-saal - die hele straat vol.

Die Gemeenskapsaal ...? --- Is die groot gebou, heel in die hoek.

Heel in die hoek van die foto? --- Ja. In die Suid-westelike hoek. Dit het vol Bantoes gestaan. Ek het gesien dat daar twee saracens kom en hulle het reg voor die hostel parkeer, aan die linkerkant van die pad; en hulle het daar gestaan vir ongeveer 15 minute en hulle het toe beweeg in ons rigting. Hulle het tussen die Bantoes in beweeg, en daar was klippe na hulle ook gegooi.".

140. Die Saracens waarna Labuschagne verwys is klaarblyklik die wat onder bevel van kaptein Van der Linde was en hy het ongeveer 11.15 vm. by Sharpeville aangekom. Labuschagne getuig dan voorts:

"Toe die saracens by ons kom, het ek gesien dat maj. van Zyl die Polisie in twee groepe deel en maj. van Zyl het die saracens gevolg met Seeiso-straat, in die rigting van die Polisiestasie. Hy het aan my gevra dat ek die ande Polisie met n ompad moes neem na die Polisiestasie.

DIE VOORSITTER: Min of meer hoe laat was dit - by benadering? --- Dit was ongeveer 12-uur. Net voor ons uitmekaar is, het daar n vliegtuig oor ons gekom wat kiekies geneem het. Die was tussen 11-uur en 11.30. Maj. van Zyl...

VERHOOR HERVAT: Net een vliegtuig? --- Net een vliegtuig - n klein vliegtuigie.

Hoe kon jy sien dat dit kiekies neem? --- Dit het baie laag oor my gedraai. Dit het skuins gedraai, en hier waar ek in die straat gestaar het, kon ek sien hy neem kiekies van ons, en ook van die omgewing.

Om net dit duidelik te kry: Maj. van Zyl gaan nou en ....? --- Hy volg die twee saracens op, in die rigting van die Polisiestasie, in Seeiso-straat.

Deur die skare? --- Deur die skare, ja.

En u gaan met n systraat af? --- En ek is met die ander Polisie in n systraat af, links om, tot in Zwane-straat. Maar ook net, voor ons uitmekaar is, het een Bantoeman met n P.A.C.-kaartjie aan sy baadjie na vore gekom en vir die skare gesê, "Come, come! Let us march to the Police Station".

DIE VOORSITTER: Die P.A.C.-kenteken, waaruit bestaan dit? --- Dit is - party is groen en party is blou kaartjies, aan hulle baadjies; hulle het dit aan die lapel gehad. Bo-aan staan in swart letters gedruk, "P.A.C. - Africa for the Africans!"

U sê die man het n kenteken aan gehad; is dit die kenteken aan sy baadjie? --- Dit was die teken aan sy

baadjie. Hy het gesê, "Come, Come! Let us march to the Police Station". Net voor die saracens beweeg het, het die Bantoes omgedraai en vir hom gevolg in die rigting van die Polisiestasie en die saracens het tussen hulle in gegaan.

VERHOOR HERVAT: Met ander woorde, meen dit dat hulle teruggedraai het na die Polisiestasie-toe? --- Hulle het omgedraai, ja.".

141. Ek verwys na hierdie getuienis ten einde U Eksellensie n insig te gee oor hoe die insidente waarna die getuie verwys vir die eerste maal ter sprake gekom het. Dan verwys hy daarna dat majoor Van Zyl saam met die Saracens in Seeiso-straat in die rigting van die polisiestasie beweeg het, terwyl hy saam met kaptein Coetzee met n ompad ook daarheen gegaan het. Hoewel hy in sy getuienis sê dat dit toe ongeveer 12-uur was, dui die oorwig van getuienis daarop dat majoor van Zyl en kaptein Coetzee vroeër vertrek het. Later in sy hoof-getuienis verwys Labuschagne weer na die voorval waar n Bantoe die skare aangesê het om na die polisiestasie te marsjeer. Daar sien hy hom as Manuel Teketsi, n lid van die Uitvoerende Komitee van die Pan Africanist Congress. By hierdie geleentheid stel Labuschagne die tyd op 11-uur vm., "terwyl ons vasgekeer was ..... en gewag het vir die Saracens".

142. Labuschagne se getuienis oor hierdie verskeie gebeure is in kruisverhoor aangetas. Hierdie getuienis onder kruis-verhoor is van belang waar ek later trag om al die getuienis saam te vat ten einde U Eksellensie n deurlopende beeld te gee van wat na my beskouing in Seeiso-straat gebeur het. Die getuienis is ook nie vatbaar vir behoorlike opsomming nie, en daarom haal ek dit hier in die geheel aan. Dit begin met n vraag (wat, terloops, nie n korrekte weergawe van die getuie

se hoofgetuienis is nie) soos volg:

"I wonder if you would just look again at this big photograph, Mr. Labuschagne (Exh. "C"). I want you just to think back to the time you mentioned when the two saracens first came along. I think you said that at that stage Seeiso Street was full, from the school to the hall?"(Die bewysstuk waarna verwys word is Aanhangsel "G"). Die antwoord en die verdere getuienis lui soos volg:

"Ja; dit is net voordat hulle aangekom het.

Now, I am not quite sure if I've got it right. Is the school here? --- Daar is vier skole. There are two schools on the right-hand side and three on the left-hand side.

And where is the hall? --- Die saal is die groot gebou in die vér hoek.

DIE VOORSITTER: Met ander woorde, waar Zwane-straat en Seeiso-straat min of meer bymekaar kom? --- Dit is korrek.

CROSS-EXAMINATION CONTINUED: Now, what do you mean when you say the street was full from the school to the hall? Do you mean there were people at various points all along the street? You don't mean that they were solid? --- Die persoon wat my geroep het, het gesê, 'Meneer, kom kyk hier' en ek het op die vragmotor geklim en hulle was een, swart massa, van die skole tot by die saal.

And when the saracens arrived, was it the same? --- Nee; voordat die saracens ingekom het, het ek gesê, het Manuel Teketsi, een van die P.A.C.-lede met 'n kaartjie aan, vir hulle gesê, 'Come! Come! Let us march to the Police Station' en toe die saracens hier onder beweeg, het hulle omgedraai en opmarsjeer Polisiestasie-toe.

About what time was that, that they started marching up? --- Seker net na 11-uur.

They marched up Seeiso Street? --- Ja.

But you say that was about 11 o'clock? --- Ongeveer.

Was that before this aeroplan was flying over, taking pictures? --- Ja.

So, by the time the little aeroplane came round to take pictures, which you say was between 11 and 11.30, had the crowd gone up to the Police Station? - Hulle was op pad.

They were on their way? -- Ja.

Up Seeiso Street? --- Yes.

I wonder whether you would have a look at this photograph Exh. "B". That is the photograph taken from the air. Evidence is apparently going to be led by my learned friend, Mr. Claassen, to show that this photograph was taken some time between 11 and 11.30. That is what the indication was. Now, you see Seeiso Street on this photograph? --- Ja.

You see quite a lot of it, don't you? --- Ja.

There is no crowd there, is there? --- Daar is nie. Dit mag wees dat hierdie nog voor dit geneem is.

Or it may be, of course, that this is really the crowd? --- Om die Polisiestasie - onmoontlik!

I think this morning you said that this aeroplane flew over between 11 and 11.30? --- Nee; ek het gesê voor 11-uur; voordat die saracens opgedaag het.

No, you did not; 11 to 11.30. I think we will check it on the record, Mr. Labuschagne. There is no need for us to argue about it. But I have noted that you saw this small 'plane between 11 and 11.30? ---Ek wil nie graag argumenteer nie.

Not before 11; between 11 and 11.30. And the way you fixed the time was, that it was the time when the street was full. You said shortly afterwards the saracens came along. So your evidence will speak for itself, Mr. Labuschagne? --- Dit mag so wees.

But you did not say you saw the plane before 11 o'clock? --- Terwyl ons tussen die mense was, het die klein vliegtuigie sé (beduie) oor ons gedraai, en só gery. Ek het nie op my horlosie gekyk nie. Ek het gesê 'ongeveer 11-uur'.

DIE VOORSITTER: Waar was u gewees toe die vliegtuig daar gevlieg het, soos u gesê het, en die foto geneem het? --- Ek het op een van die Munsipale voertuie se trap gesit, by die skole, saam met maj. van Zyl, tussen die Bantoes.

Nog in Seeiso-straat? --- Ja; verderaan in Seeiso-straat.

CROSS-EXAMINATION CONTINUED: You see, what you made clear in you evidence was that, leaving aside the exact hour, this plane flew over just before the saracens arrived? --- Ja. Soos ek sê, miskien is ek verkeerd as ek 11-uur sê, maar ek het geskat ongeveer 11-uur.

The point is, it was just before the saracens arrived and we know that when the saracens ...? --- Die saracens was nog nie daar toe die vliegtuig oorgevlieg het nie.

You said the 'plane was there just before the saracens arrived? --- Op daardie plek.

And at that stage, as you told us this morning, Seeiso Street was full of people? --- Ja.

Well, of course, if this photograph was taken by the aeroplane which flew over, then there is something wrong. But as yet we haven't proved what aeroplane took this photograph? --- Ja; die weet ek nie.

I want to ask you something about this man who said 'Come, come! Let us march to the Police Station'. You say he spoke in English? --- Ja.

Who was he speaking to? --- Hy het eers met maj. van Zyl gepraat en hy het omgedraai, en met die skare gepraat.

And he chose to speak to them in English? --- Ja.

Are you giving us the exact words? --- Heeltemal die juiste woorde.

He used the word 'march'? --- Ja.

'Come! Come! Let us march to the Police Station'? --- Ja.

That must have struck you as a rather odd form of words? --- Ek ken die persoon goed. As n mens hom ken, sou jy nie gedink het dat dit snaaks is nie.

Very well.

DIE VOORSITTER: Hoe lank ken u hom reeds? --- Seker ses maande.

CROSS-EXAMINATION CONTINUED: Maj. van Zyl must have heard that? --- Dit kan ek nie sê nie.

Well, he was right there? ---Hy het eers met die majoor gepraat. Die majoor het sy rug op hom gedraai en na my-toe gekom, en Teketsi het omgedraai en gesê, 'Come! Come! Let us march to the Police Station'.

Did this man say it in a very loud voice? --- Dan moes hy dit gehoor het.

No, but did he say it in a very loud voice? --- Hy het. Hy het dit so gesê dat die skare dit gehoor het. Hulle het hom gevolg.

Which side of the crowd was he? --- Hy was heel voor, as jy afkom in Seeiso-straat was hy heel voor, tussen die skare en die Polisie.

And you say the crowd followed him? --- Ja.

Which way did he go? ---Terug, in die rigting van die Polisiestasie.

You mean, he went through the crowd? --- Hy het saam met hulle gegaan.

Why do you say the crowd followed him? --- Party was agter; hy het tussen hulle deur geloop. Party was agter hom, en het saam met hom gegaan.

That is not the same as saying the crowd followed him. You mean he went into the crowd? --- Ek het nie gesê hulle het hom gevolg nie; hy het saam met hulle gegaan, of hulle het saam met hom gegaan.

You don't say that they followed him? --- Ek weet nie.

Did you say that they followed him? --- Ek kan nie onthou nie.

DIE VOORSITTER: Op daardie tydstip, toe die skare deur hierdie persoon genooi is om na die Polisiestasie te marsjeer - wat was die posisie toe met die skare gewees in Seeiso-straat? Het hulle nog op gestaan hier in die rigting van die ontspanningsaal? --- Ja; daar was baie van hulle; daar was baie in die straat gewees.

En waar u sê die skare het hom toe gevolg, of saam met hom geloop, het hulle van onder af begin en omgedraai en geloop, of het die skare as geheel omgedraai en ...? --- Dit het vir my gelyk of hy van bo, deur hulle gekom het tot onder uit. Of hy dit aan hulle gesê het binne, weet ek nie; maar toe hy uitkom, het hy dit gesê, en die hele skare het begin beweeg in die rigting van die Polisiestasie.

CROSS-EXAMINATION CONTINUED: The whole crowd? --- Ja; bo het hulle al geloop. Hierdie om die Polisie het dadelik omgedraai toe hy so sê, en hulle het saamgeloop.

And you say the whole crowd right along Seeiso Street turned round and started going towards the ...? --- Ek het nie gesê dié hele skare nie. Ek was miskien twee/drie minute bo-op die vragmotor se dak. Vanwaar jy op die grond staan, kon jy nie sien nie.

When you were on the ground, ~~in fact,~~ you could not see how far back the crowd went? --- Jy kon net hulle koppe sien. Jy kon nie sê hoe ver hulle terug staan nie.

In fact, if you are standing on the ground, at the same level as the crowd, it is very difficult to say how far back they go? --- Jy kan nie sê nie.

It is very difficult to estimate the size of the crowd if you are on the same level? --- Heeltemal reg.".

143. 'n Aantal Bantoes het ook in verband met die gebeure in Seeiso-straat getuienis gegee. Sommige verwys daarna dat hulle vroeg die môre (vermoedelik tussen 5 en 6 uur vm.) na Seeiso-straat gegaan het. Die meerderheid het na bushaltes gegaan om busse na hulle werk te haal. Aangesien geen busse beskikbaar was nie, is dit waarskynlik dat die getalle gaandeweg vermeerder het. Uit die getuienis blyk ook dat dit 'n geleentheid vir die organiseerders van die Pan Africanist Congress se veldtog geskep het om betogers op groot skaal te werf. Dit is ook duidelik dat daar, soos die geval gedurende die vorige nag was, van geweldpleging en dreigemente gebruik gemaak was om van die Bantoes te beïnvloed.

144. 'n Getuie (Adam Sakwane) het omstreeks 7.45 vm. na 'n bushalte in Seeiso-straat gegaan om sy bus te haal. Hy getuig dat hy 'n groot skare in Seeiso-straat gesien het. Volgens sy beskrywing sou hulle die straat vol gestaan het vanaf die hostel en verder weswaarts in Seeiso-straat. (Indien sy getuienis oor die tyd by benadering korrek is sou dit die posisie gewees het kort voordat majoor Van Zyl die knuppelstormloop gelas het). Hy het nie in Seeiso-straat vertoef nie, maar is terug huistoe. Omstreeks 11 vm. het hy na die polisiestasie gegaan en daar gebly totdat die skietvoorval plaasgevind het (hy het ook 'n skietwond opgedoen).

Lechael Musibi, 'n onderwyser, het ook getuig dat hy omstreeks 7.45 vm. in Seeiso-straat was toe hy na die skool gegaan het. Hy het toe 'n skare in die rigting van die ingang na Sharpeville gesien en ook waargeneem dat andere daarheen stap. Hy sê dan ook dat hy tussen 10-uur en 11-uur vm. op pad huistoe was, en toe gesien het dat die groot skare terugval, d.w.s. in die rigting van die polisiestasie. Sy indruk was dat hulle deur die polisie teruggedryf was. Dit is waarskynlik dat hy verwys na die geleentheid toe die skare op versoek van Manuel Teketsi omgedraai het om na die polisiestasie te gaan.

145. Moses Smit, 'n lid van die Pan Africanist Congress wat met die reëling van die veldtog behulpsaam was, getuig dat hy Tsolo, die môre omstreeks 9-uur in Seeiso-straat saam met 'n groep betogers aangetref het. Hy sê dat hy nie die vorige nag in Sharpeville was nie en eers omstreeks 6-uur vm. daar aangekom het. Hy het toe verneem dat 'n skare byeengekom het in 'n gedeelte van Sharpeville wat ten weste van die polisiestasie geleë is (in die getuienis word na hierdie deel verwys as "Zenzele", "site and service" en erf en diens skema). Hy het daarheen gegaan. Hy en ene Qwade het die skare meegedeel dat hulle na Putso-stene (wat aan die teenoorgeselde kant van die polisiestasie geleë is) moes gaan om by die skare wat daar saam met die leier vergader het, aan te sluit. Uit Moses Smit se getuienis blyk dit waarskynlik dat hy na Tsolo as die leier verwys. Die skare het hom en Qwade gevolg en hulle het in Seeiso-straat in die rigting van Putso-stene geloop. Die getuie sê dat die twee groepe in Seeiso-straat ontmoet het aangesien die groep onder Tsolo toe reeds vanaf die rigting van Putso-stene aangestap gekom het. Die plek waar hulle ontmoet het is in Seeiso-straat betreklik naby die gebied waar die polisiestasie geleë is. Smit sê dat dit toe ongeveer

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9-uur vm. was. Tsolo het die skare toegespreek en, onder meer, verduidelik dat die betoging slegs as n blyke van beswaar teen die dra van bewysboeke en nie vir doeleindes van geweldpleging gereël is nie. Tsolo het ook verduidelik dat hy hom eerste vir arrestasie sou aanmeld. Omstreeks 10-uur vm. het hierdie skare as n geheel na die polisiestasie gegaan. Daar moet onthou word dat hierdie getuie, soos die meerderheid van getuies die tyd by benadering geskat het.

146. Die gedeelte van Seeiso-straat waar die twee groepe vergader het is duidelik sigbaar op die lugfoto (Aanhangsel "I"). Indien die westelike grenslyn van die polisiestasie in die rigting van Seeiso-straat verleng word sou die punt waar dit die straat sny die omgewing aandui waar die groepe mekaar ontmoet het. Die lugfoto bewys natuurlik dat toe die vliegtuig waaruit dit geneem was omstreeks 11-uur vm. oor Sharpeville gevlieg het hierdie deel van die skare in Seeiso-straat reeds by die polisiestasie was. Hierdie getuienis staaf na my beskouing Labuschagne se getuienis dat hy waargeneem het dat n groep in Seeiso-straat in die rigting van wes na oos beweeg het en by die skare wat toe reeds daar was aangesluit het. Dit is na my beskouing ook waarskynlik dat hy na hierdie skare verwys waar hy getuienis gee oor die skare in Seeiso-straat wat vanaf die skoolterrein tot by die ontspanningssaal ten weste van die polisiestasie "bankvas" gestaan het. Hy het hierdie skare gesien toe hy vir enkele minute op die bak van n voertuig gestaan het. Hy het erken dat toe hy op die grond gestaan het hy nie die omvang van die skare kon waarneem nie. Dit volg na my beskouing dat hy heelwaarskynlik nie die opmars van die groepe van Smit en Tsolo na die polisiestasie gesien het nie. Na my beskouing is dit ook waarskynlik dat hierdie groep onder Tsolo vanaf die omgewing

van Putso-stene na die polisiestasie begin beweeg het nadat die skare omstreeks 7.45 vm. deur die polisie onder bevel van majoor Van Zyl uiteengejaag is. Nog n lid van die Pan Africanist Congress, Masheledi (na wie ek ook reeds in hierdie verslag verwys het) getuig oor die feit dat n "Pan Africanist" groep - soos hy dit stel - die môre in Seeiso-straat doenig was. Die groep het hulle leiers - onder meer, ene Ramodebe - aan die spits gehad. Dit is moontlik n ander groep as die wat by Tsolo was, aangesien Masheledi vertel dat hy die groep verlaat het en na die polisiestasie gegaan het waar hy Tsolo aangetref het.

147. Afgesien van die getuienis van Labuschagne en polisie getuies, is daar ook ander getuienis wat daarop dui dat n skare in Seeiso-straat aanwesig was totdat hulle deur n leier (of leiers) van die veldtog aangesê was om na die polisie-stasie te gaan. Ek het reeds na die getuienis van die onderwyser Lechael Musibi, oor wat hy tussen 10-uur en 11-uur vm. in Seeiso-straat waargeneem het, verwys. Moses Smit vertel ook dat terwyl hy by die polisiestasie was het Ramodebe na hom gekom en hom meegedeel dat daar n groep in Seeiso-straat is wat die polisie keer sodat hulle nie na die polisiestasie kon deurkom nie. Volgens Smit sou Ramodebe gesê het dat daar baie Bantoes was, dat hulle luiddrugtig was en dat hulle wou baklei. Smit sê dat hy en Gwadi toe na Putso-stene gegaan het en op pad groepe Bantoes in Seeiso-straat aangetref het. Hulle sou bloot rondgestaan het. Hy het geen tekens van geweldpleging gesien nie. Hy sê egter dat hy en Gwadi uiteindelik n groep jong Bantoes teëgekom het. Oor wat daar plaasgevind het, getuig Smit as volg:

"Then, did you get to Putso Stene --- Yes.

And did you find some Africans there? --- Yes; I did.

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Were they young, or old, or mixed? --- The majority of them were young people.

What was their mood? --- They were annoyed. They were hostile.

To whom were they hostile? --- To the Police.

Were there many of them? --- Yes; there were many of them.

Did Qwadi speak to them? --- Yes; he did.

Did they listen to him? --- They gathered to listen to what he had to say.

And what did he tell them? --- He explained to them that this pass campaign was not a campaign where they are going to fight, and if they intend fighting, they must go back to their homes. In other words, if they do not intend fighting, they must go along with him to the Police Station because they were not going to fight.

At that place, in Putso Stene, on the other side of these people, were there Police? --- Yes; there were.

Did you and Qwadi go up to the Police? --- Yes; we did.

To do what? --- We saw that these European Police were scared to pass these people, so we went and explained to them that there was no need for them to be afraid of these people, to pass them.

Did you speak to any Policemen in particular? --- The European Policeman that I spoke to, I think he was the leader of the Police, because he had one of these short sticks.

And did you tell him what you had told the people? --- Not me personally. I also, but what we had told them - not me individually.

What you and Qwadi had told the people? --- That is correct.

Did you tell him where the people were going to go? --- We did.

Where did you say they were going? --- To the Sharpeville Police Station.

And what did this Police Officer say to that? --- He said that he was not going to walk ahead with his men to these people; it would be better if we, with these people, walked ahead and they would follow on.

And is that what you did? --- That is correct.

You and Qwadi went to the Police Station, and did the crowd follow you? --- Yes.

Was there any trouble, then, with the crowd? --- No.

Did these young men who you and Qwadi had spoken to, go along with you to the Police Station? --- Yes; they did.

Did they make any trouble after that? --- No trouble made by them.

And did you and this crowd of people arrive at the Police Station before the Police? --- When we got there, I don't know whether it is Zwane Street - I saw some Police get there and when looking I saw that it was some of the Police that I had seen prior to that, lower down, when I spoke to them, that they were also there.".

Hoewel Smit se getuienis van Labuschagne s'n verskil oor die omstandighede waaronder die groep, wat tot omstreeks 11-uur vm. nog in Seeiso-straat teenoor die polisie stelling ingeneem het, na die polisiestasie vertrek het, stem hulle tog saam dat so'n voorval wel plaasgevind het. Masheledi verwys ook in sy getuienis daarna dat hulle by die polisiestasie berig ontvang het dat daar moeilikheid tussen die polisie en die Bantoes in Putso-stene was. Elias Lidia verwys ook na hierdie gebeure in Seeiso-straat. Volgens Lidia sou daar omstreeks

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8-uur vm. slegs ongeveer n 50 of wat Bantoes by die polisie-stasie gewees het. n Bietjie later sou daar etlike honderde in Seeiso-straat gewees het. Hy verwys ook na die geleentheid toe Qwade die skare in Seeiso-straat sou aangesê het om na die polisiestasie te gaan. Hierdie skare sou uit omtrent 700 Bantoes bestaan het. Volgens Lidia sou hierdie skare in Seeiso-straat gewag het op n geleentheid om saam met die polisie na die polisiestasie te marsjeer. Volgens Lidia het die skare hulle stigtelik gedra.

148. Ondanks teenstrydighede in die getuienis is dit na my beskouing nogtans moontlik om met n redelike mate van seker-heid vas te stel wat daar gedurende die voormiddag in Seeiso-straat plaasgevind het en watter verband daardie gebeure met die latere gebeure by die polisiestasie het. Die getuies is dit almal eens dat daar n tydperk van betreklike stilte was na die verskeie groepe gedurende die nag deur die polisie uiteengejaag was. Die getuienis dui ook daarop dat lede van die Pan Africanist Congress en hulle ondersteuners nie afgesien het van hulle voornemens om die veldtog in Sharpeville op tou te sit nie. n Sameloop van omstandighede het daartoe bygedra dat n aansienlike skare later gedurende die dag by die polisiestasie vergader het.

149. Die getuienis dui daarop dat inwoners vanaf vroeg die môre (tussen 5-uur en 6-uur vm.) in groot getalle na Seeiso-straat gestroom het en aanvanklik veral in die omgewing van bushaltes vergader het. Dit is waarskynlik dat die oorgrote meerderheid werknemers was wat daarheen gegaan het om busse na hulle werk te haal. Die busse het egter nie opgedaag nie en die skare het dus steeds vermeerder. Die getuienis dui daarop dat die leiers en ondersteuners van die veldtog die geleentheid te baat geneem het om die skare te bearbei en dat

van hulle ook van vreesaanjaging gebruik gemaak het om mense te verhoed om met fietse en motorkarre na hulle werk te gaan.

150. Die polisie het geen poging gedoen om hierdie skare uiteen te jaag nie. Gedurende daardie tydperk was hulle optrede daarop gemik om waar nodig beskerming te verleen aan werknemers wat na hulle werk wou gaan. Dit het eers later geblyk dat daar geen busse beskikbaar sou wees nie. Daar het toe geen regverdiging bestaan vir enige optrede wat as gevolg sou gehad het dat werknemers wat op vervoer gewag het uiteen moes gaan nie.

151. Die getuienis dui ook daarop dat groepe wat deur leiers en ondersteuners van die Pan Africanist Congress op die been gebring is al hoe meer doenig in Seeiso-straat geraak het. Dit kan geredelik aanvaar word dat hierdie gebeure in Seeiso-straat gaandeweg al hoe meer nuuskieriges (wat vrouens en kinders insluit) gelok het. Dit is dus na my mening waarskynlik dat daar teen ongeveer 7-uur vm. reeds 'n aansienlike skare in Seeiso-straat aanwesig was.

152. Die polisie getuienis is dat hulle teen daardie tyd waargeneem het dat die skare in die rigting van die uitgang beweeg en vermoed dat dit op 'n voorneme dui om na Vereeniging te gaan. Die optrede van die polisie bevestig na my beskouing die getuienis dat hulle daardie indruk gekry het. Dit blyk dat al die polisie wat dieper in die woonbuurt in was opgedra was om na die omgewing van die uitgang te gaan en daar stelling in te neem. Daar is geen aanvaarbare getuienis wat daarop dui dat daar teen daardie tyd enige noemenswaardige skare by die polisiestasie was nie of dat daar enige opmars daarheen aan die gang was nie. Die beweging van al die groepe was toe steeds in en in die rigting van Putso-stene, dit is die gedeelte van Sharpeville wat tussen die skoolterrein en die oostelike

uitgang geleë is. Die groep onder Moses Smit en Qwade sou volgens plan juis verby die omgewing van die polisiestasie marsjeer om by die groep in Putso-stene aan te sluit. Die oorwig van getuienis dui daarop dat die werklike toestroming na die polisiestasie vanaf Seeiso-straat waarskynlik begin het na die knuppelstormloop omstreeks 8-uur vm. uitgevoer is. Voorts blyk dit ook dat n betreklike groot skare in Seeiso-straat gebly het totdat hulle ongeveer 11-uur vm. deur lede van die Pan Africanist Congress na die polisiestasie gelei was. Ek het reeds daarna verwys dat n blanke sersant die bevel-voerder is by die Sharpeville polisiestasie. Die oorgrote meerderheid van die polisie wat daar diens doen is egter Bantoes. Dit kan maklik begryp word dat n geslaagde opmars deur die blanke woonbuurt na die polisiestasie in Vereeniging veel meer indruk sou skep as n byeenkoms by die Sharpeville polisiestasie. Labuschagne het getuig dat hy van gesprekke wat Bantoes met mekaar gevoer het afgelei het dat dit die doel was. Die Bantoe getuies ontken een en almal dat dit ooit die plan was. Uit die aard van die saak sou dit natuurlik minder moeite gekos het om die betoging binne Sharpeville self te hou. Daar is egter geen getuienis dat daar enige vooraf beplande opset was om juis na Vereeniging polisiestasie te gaan ten einde binne die blanke woonbuurt tot geweldpleging oor te gaan nie. Op sy laagste gestel is dit beslis moontlik dat dit die aanvanklike plan was om na Vereeniging polisie-stasie te gaan en dat daar eers van hierdie voorneme afgewyk is toe die polisie die skare in Seeiso-straat eers gestuit en later teruggedruk het.

153. Die getuienis bewys ook na my beskouing dat n gedeelte van die skare in Seeiso-straat reeds teen ongeveer 7-uur vm. tekens van vyandiggesindheid en opgewondenheid aan die dag gelê

het. Ondanks versoeke daartoe het hulle geweier om uiteen te gaan of selfs terug te val. Daar bestaan nie die minste twyfel dat klipgooiery voorgekom het nie, en dit was op sowel die polisie as burgerlikes (Blank en Bantoe) gemik. Traangas-bomme is tussen die skare gegooi, maar dit het hulle blykbaar nie veel aangetas nie, en hulle het slegs vir 'n kort distansie teruggeval.

154. Die polisie (nagenoeg 20 Blankes en 40 Bantoes) het omstreeks 7.45 vm. 'n knuppelstormloop uitgevoer en die skare uiteengejaag en uiteindelik tot in die omgewing van die skool-terrein teruggedruk. Die Bantoes wat in systrate ingevlug het, het geleidelik na Seeiso-straat teruggekeer. Die gevolg was dat daar later 'n skare tussen die polisie en die ingang was en 'n groter skare tussen hulle en die polisiestasie was.

155. Terwyl die polisie in die omgewing van die skoolterrein was het 'n groep betogers onder leierskap van Smit en Qwade vanaf die rigting van die gemeenskapssaal ten weste van die polisiestasie aangestap gekom en by 'n ander groep onder die leierskap van Tsolo in Seeiso-straat aangesluit by 'n punt waarna ek reeds verwys het. Hier het Tsolo die skare toege-spreek en het hy hulle ook daarna na die polisiestasie gelei. Hierdie deel van die skare wat in Seeiso-straat vergader het, was reeds by die polisiestasie toe die lugfoto (Aanhangsel "I") geneem was.

156. Kaptein Coetzee het omstreeks 10.20 vm. met versterkings (13 blankes en 6 Bantoes) opgedaag en by die polisie onder die bevel van majoor Van Zyl aangesluit. Volgens sy waarneming sou daar toe 'n skare van tussen 8,000 en 10,000 gewees het. Hy verwys ook daarna dat hy gesien het dat van die skare wapens gedra het, dat hulle die polisie met beledigings uitgetart het en hulle veglustig voorgedoen het. Dat die posisie in

Seeiso-straat toe nog in n ernstige lig beskou is, blyk uit die feit dat hy nie onmiddellik na die polisiestasie gegaan het nie.

157. Omstreeks 11-uur vm. (maar vermoedelik na die lugfoto geneem was) het leiers van die betogers die oorblywende gedeelte van die skare in Seeiso-straat aangesê om na die polisiestasie te gaan. Daarna was die beweging van die skare in die rigting van die polisiestasie.

158. Kaptein Van der Linde het omstreeks 11.15 vm. met twee Saracens opgedaag en kort daarna majoor Van Zyl na die polisiestasie geneem. Terwyl hulle op pad was het vliegtuie van die lugmag hulle eerste vlug oor die woonbuurt gedoen. (Die vliegtuie het blykbaar meer as een vlug oor n tydperk onderneem). Dit blyk dat daar toe nie meer n stilstaande skare in Seeiso-straat was nie, en dat die meerderheid van hulle op pad na die polisiestasie was. Toe majoor Van Zyl na die polisiestasie vertrek het, het kaptein Coetzee ook met n ompad daarheen vertrek en in Zwane-straat aan die oostekant van die polisiestasie stelling ingeneem. Labuschagne het hom vergesel ten einde hom die pad te wys. Die posisie in Seeiso-straat het dus teen omstreeks 11.30 vm. sodanig verander dat dit nie meer nodig geag was om die polisie daar te hou nie en is alle beskikbare manne na die polisiestasie gestuur. Na hierdie tyd het niks van noemenswaardige belang in Seeiso-straat gebeur nie.

159. Toe die Kommissie met sy werksaamhede begin het, het advokaat Kentridge aangedui dat sy opdrag hom verplig om sy deelname aan die verrigtinge te beperk tot die gebeure by die polisiestasie, en dat hy dus behalwe by wyse van uitsondering geen kruisvrae sou stel of getuienis sou voordra in verband met gebeure wat elders plaasgevind het nie. Soos later uit

hierdie verslag blyk, is dit my beskouing dat die gebeure by die polisiestasie nie los staan van dié wat elders in Sharpeville plaasgevind het nie en dat dit trouens onmoontlik is om betroubare bevindings oor die gebeure by die polisiestasie te doen tensy daar ook kennis geneem word van wat elders plaasgevind het. Hoe dit ookal sy, advokaat Kentridge het in sy betoog kortlike na die gebeure wat elders plaasgevind het verwys en dit gestel dat daar genoeg aanduidings in die getuienis is dat die relaas van die polisie nie in sy geheel erken word nie en dat bevindings na aanleiding van n onkritiese aanvaarding van die polisie getuienis nie geregverdig sou wees nie. Ek gaan akkoord met hierdie stelling. U Eksellensie sal egter reeds opgelet het dat my verslag oor die gebeure gedurende die nag en in Saeiso-straat gegrond is op n samevatting van al die getuienis soos voorgedra deur die polisie (Blankes sowel as Bantoes), munisipale amptenare en burgerlikes (Blankes sowel as Bantoes). Wat die Bantoe burgerlikes betref het ek ook die getuienis van leiers en gewone lede van die Pan Africanist Congress vir oorweging gehad.

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DIE GEBEURE BY DIE POLISIESTASIE.

INLEIDING.

160. Ek het reeds voorheen in hierdie verslag na die ligging van die polisiestasie verwys en enkele ander besonderhede in verband daarmee aangestip. Ek heg hierby aan 'n sketsplan (na skaal geteken) van die polisiestasie en die aangrensende terrein (Aanhangsel "J").

161. Die getuienis dui daarop dat die telefoonverbinding tussen Sharpeville polisiestasie en Vereeniging gedurende Sondagaand, 20 Maart, verbreek was en blykbaar eers gedurende Maandagmiddag herstel is. Afgesien van die feit dat verskeie Bantoes gedurende die nag na die polisiestasie gekom het om klagtes in verband met optrede van betogers in te dien het daar niks van belang daar plaasgevind nie. Dit blyk nie dat daar gedurende die nag enigiets gebeur het wat spesiale reëlings by die polisiestasie genoodsaak het nie.

162. Sersant Moses Nkosi, aanklagtekantoor-sersant, het om 4.45 vm. op Maandag aan diens gegaan en was in bevel van die polisie (wat almal Bantoes was) totdat Hoofkanstabel Heyl omstreeks 9.30 vm. daar aangekom het. Volgens hom het niks van belang plaasgevind totdat Tsolo met sy groep daar aangekom het nie. Nkosi sê dat hy nie seker is oor hoe laat Tsolo daar aangekom het nie, maar het geskat dat dit ongeveer 8-uur vm. was. Na my beskouing dui die oorwig van getuienis egter daarop dat Tsolo eers ongeveer 9-uur vm. (en moontlik nog later) by die polisiestasie aangekom het. Dit is ook waarskynlik dat die begin van enige noemenswaardige toestroming na die polisiestasie met Tsolo se aankoms saamgeval het en dat dit 'n verband het met die polisie-optrede in Seeiso-straat vanaf ongeveer

7.45 vm. (toe majoor Van Zyl 'n knuppelstormloop gelas het). Wat na my beskouing egter ook waarskynlik is, is dat Tsolo en die groep betogers wat eerste hulle opwagting by die polisiestasie gemaak het reeds in Zwane-straat voor die ingang na die aanklagtekantoor stelling ingeneem het toe Heyl en 'n aantal polisie daar aangekom het. Sersant Grobler, die stasiebevelvoerder, was by hierdie groep ingesluit. Heyl getuig dat hy omstreeks 9.30 vm. daar aangekom het, en dat daar toe 'n skare van ongeveer 3,000 in Zwane-straat voor die ingang na die polisiestasie was. Hoewel hy by die dubbel-hek aan die westekant die perseel binnegegaan het verwys hy gladnie na enige skare aan daardie kant nie. Na my beskouing is dit waarskynlik dat die oorgrote meerderheid van hierdie skare vroeër saam met Tsolo in Seeiso-straat was en ten minste bewus was van wat daar gebeur het, indien hulle dan nie self by die polisie-optrede teen die betogers betrokke was nie. Dat Nkosi se getuienis ten opsigte van tyd nie te betroubaar is nie blyk uit sy skatting dat die eerste blanke polisie (dit is die groep onder Heyl) eers omstreeks 11.15 vm. by die polisiestasie aangekom het.

163. Nkosi vertel dan dat Tsolo na hom gekom het en versoek het dat hy (Nkosi) Tsolo en al die aanwesiges moes arresteer omdat hulle nie hulle bewysboeke by hulle gehad het nie. Ek het reeds hierbo in paragraaf 121 Nkosi se getuienis oor sy gesprek met Tsolo aangehaal, en daaruit blyk dat hy die vir hom netelige probleem heeltemal knaphandig opgelos het. Uit ander getuienis blyk dit dat Tsolo toe aan die skare gesê het dat hulle by die polisiestasie moes wag. Dit blyk ook uit Nkosi se getuienis dat die skare op daardie stadium nie besonder luiddrugtig was of enige aggressiewe houding teenoor die Bantoe polisie geopenbaar het nie.

164. U Eksellensie sal dit in gedagte hou dat die getuienis daarop dui dat die polisie onder majoor Van Zyl toe nog steeds in Seeiso-straat met 'n skare van etlike duisende betogers te doen gehad het en op versterkings gewag het.

165. Heyl en Grobler verskil oor sowel die aantal betogers asook hulle gesindheid by hulle aankoms by die polisiestasie. Grobler meen dat daar toe reeds 'n skare van 5,000 was, dat hulle besonder oproerig was en dat die meeste van hulle met kieries en selfs ysters gewapen was. Heyl se skatting is dat daar om 9.30 vm. 'n skare van ongeveer 3,000 betogers was. Indien ek sy getuienis reg snap was hulle aanvanklik nie so luiddrugtig soos later die geval was nie. Wat die skare aan die suidekant (dit is in Zwane-straat) betref, sê hy dat hy geen wapens opgelet het nie. My indruk is dat Heyl se getuienis in hierdie verband meer betroubaar is, aangesien Grobler deurgaans 'n neiging tot oordrywing toon.

166. Heyl het met Tsolo gepraat en hom, onder meer, meegedeel dat hulle hulle vertoë tot die Regering moes rig aangesien die polisie nie by magte was om enigiets in verband met hulle eise te doen nie. Daar het egter niks uit hierdie gesprek voortgevloei nie, en Heyl het Tsolo ook nie direk versoek om stappe te doen om die skare uiteen te laat gaan nie. Ek is egter oortuig dat so'n versoek op daardie stadium geen effek sou gehad het nie. Heyl sou uit die aard van die saak ook nie in staat gewees het om handelend op te tree indien daar nie aan die versoek gevolg gegee sou geword het nie, aangesien daar toe slegs ongeveer 5 blanke en 10 Bantoe polisie beskikbaar was.

167. Die posisie het gaandeweg versleg. Volgens Heyl het die skare aangegroei, teen die draadheining begin saamdrom en al hoe meer luiddrugtig geraak. Hy sê dat daar later nagenoeg

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4,000 tot 5,000 betogers was. Sy oordeel was dat die toestand gevaarlik begin word het. Dat dit nie bloot n oordeel by nabetragting is nie blyk uit sy optrede op daardie dag. Hy sê dat hy die saak met Grobler bespreek het en toe besluit het om n boodskap na majoor Van Zyl te stuur. Dat die Bantoe polisie hulle toe ook nie veilig gevoel het nie blyk uit hulle aanvanklike traagheid om as boodskappers te dien. Na bespreking het twee hulle as vrywilligers aangebied en die polisiestasie verlaat om die boodskap aan majoor Van Zyl oor te dra. Daar is geen getuienis dat hulle enigsins gemolesteer was nie. Volgens Heyl se skatting sou daar toe reeds van 5,000 na 6,000 betogers wat uit mans, vrouens en kinders bestaan het, vergader het. Heyl sê in sy getuienis dat hy selfs op hierdie tydstip nog geen wapens opgelet het nie. Afgesien van die feit dat Isolo More en moontlik ook ander leiers van tyd tot tyd binne die omheinde polisie terrein was, is daar geen getuienis dat die betogers andersins enige poging gedoen het om te oortree nie.

168. Tot op hierdie stadium kan die getuienis van die kant van die betogers oor die omstandighede waaronder die eerstes van hulle by die polisiestasie vergader het redelikerwys met die van die polisie getuies versoen word, soos ek reeds hierbo aangedui het. Die belangrikste verskil het betrekking op die gesindheid van die skare en ook hulle getalsterkte. Ek meen egter dat dit gerieflikker is om later oor hierdie aspekte van die gebeure volledig verslag te doen.

169. Volgens Heyl het luitenant Visser omstreeks 10.30 vm. met versterkings opgedaag. Daar sou toe van 7,000 tot 8,000 betogers gewees het wat nou aan die weste- sowel as die suidekant gestaan het. Daar was toe ongeveer 25 na 30 blanke polisie by die polisiestasie. Hoewel luitenant Visser n lid

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van die speurafdeling is en nie normaalweg oor polisie van die uniformafdeling bevel voer nie was hy vanweë sy rang in bevel van die polisie by die polisiestasie totdat kaptein Theron omstreeks 11.45 vm. aangekom het. Volgens Visser sou hy ongeveer 11 vm. aangekom het. Ek meen dat hy heelwaarskynlik vroeër aangekom het. Dat sy skatting van tyd nie te betroubaar is nie blyk uit sy getuienis dat toe hy omstreeks 10-uur by die polisiestasie verby gery het hy n massa betogers in Seeiso-straat opgelet het terwyl daar toe slegs enkele groepe van 30 na 50 betogers by die polisiestasie was. Dit is duidelik dat hy voor 10-uur by die polisiestasie verby gery het, aangesien Heyl toe by die polisiestasie was en laasgenoemde se getuienis dui daarop dat daar toe reeds etlike duisende betogers aanwesig was.

170. In sy getuienis sê Visser dat hy die oggend eers by Vanderbijlpark was, maar dat hy later na Sharpeville gegaan het. Na hy by die polisiestasie verby gery het, het hy by die polisie in Seeiso-straat aangesluit. Hy het op n sekere tydstip opgelet dat n gedeelte van die betogers in Seeiso-straat weg van die polisie en in die rigting van die polisiestasie beweeg en toe bekommerd geraak. Majoor Van Zyl was toe nie daar gewees nie en Visser het die aangeleentheid met kaptein Coetzee bespreek. Oor sy optrede getuig hy as volg:

"Ek het toe aan kaptein Coetzee dit so gestel, dat ek onrustig is oor die veiligheid van die manne bo by die Polisiestasie, maar eerstens het hy skynbaar nie daarop reageer nie. Hy het geglo dat my onrus ongegrond is. Maar na n rukkie het ek weer na hom gegaan en gesê - ek het self voorgestel en gesê ek sal gaan en gaan kyk hoe dinge bo lyk. Terselfdertyd het twee Bantoekonstabels op fietse van daardie rigting af gekom, na ons-toe, en ons

het hulle nader geroep en toe sê die een vir ons dat hoofkonstabel Heyl by die Polisiestasie bo laat weet het daar is n groot samedromming, en hy was ietwat onrustig gewees. Toe het kaptein Coetzee gesê nou goed, dan kan ek gaan kyk wat aangaan. Ek het toe saam met een of twee blanke speurders in n voertuig, en vergesel van hoofkonstabel Malan van Johannesburg - hy het n vragmotor gehad wat toe is, waarin n aantal blanke konstabels was. Ons het toe heeltemal Oos gery, en agterom gekom, na die Polisiestasie-toe. Ek het eers by die Suidelike ingang van die hek, by die Suidelike ingang van die Polisiestasie, daar voor die hek, stilgehou. Daar was toe n baie groot skare gewees. Ek sou skat daar was ongeveer 8,000.

Aan watter kant? --- Dit is die Suid- en Westekant, die omheining, daar.

En Noord? --- Aan die Noordekant was hulle skraler gewees, daardie tyd; dit was nie veel nie. Die samedromming was, soos ek sê, aan die Suidwestelike hoek, waar dit so'n soort van n vierkantige hoek maak. Daar was die groot samedromming, en dan het dit nou yler uitgesprei na die kant-toe.

Jy sê die Suid-Weste hoek? --- Ja. Daar waar die draad af is - daardie plek, min of meer; en dan het dit yler uitgesprei na die kante-toe, dit wil sê na die Oostelike kant-toe en na die Noordelike kant-toe.

Watter tyd was dit dat jy daar aangekom het? --- Min or meer 11-uur se kant.".

171. Ek het reeds hierbo daarna verwys dat Visser reeds by die polisiestasie was toe die lugfoto (Aanhangsel "I") geneem was. In sy getuienis sê hy dan ook dat die posisie soos deur hom waargeneem ooreenstem met die wat uit die lugfoto blyk. Hy sê ook dat die skare steeds aangegroei het en dat hulle gedrag sodanig was dat hy later bevrees was dat enigiets kon

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gebeur. Hy beskryf die posisie as volg:

"Het hulle enige tekens gegee, op daardie stadium, dat hulle miskien die Polisie sou aanval as hulle by hulle kom? --- Ek het dit só beskou: Daar was twee, by tye drie van hulle leiers wat aan die binnekant van die draad gestap het. Die mense het groot invloed by die skare gehad, want die een, in besonder, Tsolo, as hy net sy hande opgetel het, het n teken gegee en dan het die hele skare weergalm. As hy weer vir hulle gewys het "Bly stil", dan bly hulle stil; en hy het al binnekant die draad langs gestap, met die ander twee, by tye, ook. Nou, dit was duidelik dat die mense hulleself opgewerk het na n punt; of hulle self bewus was van die punt waartoe hulle opwerk, weet ek nie; maar dit was duidelik dat hulle hoe later hoe meer rumoerig en uitspattig word.".

172. Visser het by meer as een geleentheid met Tsolo gepraat. Uit hierdie gesprekke ontstaan n belangrike geskilpunt waaroor heelwat getuienis gegee is. Die vraag is, naamlik, of Visser (of enige ander lid van die polisiemag) aan Tsolo sou te kenne gegee het dat die betogers tot om 2-uur nm. moes wag, en dat hulle dan deur n senior amptenaar toegespreek sou word. Dit was die strekking van Tsolo se getuienis en hy het Visser aangewys as die persoon wat hom dit vertel het. Tsolo sê ook dat hy hierdie gesprek met Visser gevoer het voordat die vliegtuie oor Sharpeville gelvieg het. Visser het Tsolo se getuienis in hierdie verband as leuens bestempel. Visser se getuienis oor sy samesprekings met Tsolo lui soos volg:

"Ek het hom na my-toe geroep en vir hom gevra, 'Wat gaan hier aan? Wat is julle doel; wat wil julle he?' Toe sê hy vir my, 'Ek is die plaaslike sekretaris van die P.A.C.. Ek en al die mense wat hier staan, het nie bewysboekies nie

en ons kom Polisiestasie-toe. Ons wil toegesluit wees'. Toe sê ek vir hom, 'Maar waar kan ons so'n klomp mense soos julle toesluit; ons het mos nie plek om julle toe te sluit nie'. Toe sê hy, 'Wel, ons sal weggaan, maar ons sal terugkom, en ons sal julle lastig val totdat julle ons toesluit. Ons sal die Polisie lastig val totdat julle ons toesluit'. Ons het 'n geselskap aangeknoop en ek het nou met hom gesels en hom gepols en gehoor wat hy wil hê, en hy het toe onder andere vir my gesê - ek vra hom toe; ek sê, 'Maar julle wil nou nie bewysboeke dra nie. Gestel nou daar word 'n toegewing in dié rigting gemaak, wat wil jy dan hê?' Toe het hy vir my só gesê: Hy sê, 'Ons wil nie bewysboeke dra nie; ons sal dit nie dra nie. Ons wil £35 per maand ten minste hê, elke man. Ons wil hê dat die mense van Ghana, die mense van Basutoland, en die mense van ander Afrikaner-state vryelik na die Unie kan kom, en dat die Suid-Afrikaanse Bantoes vry sal wees om ander lande na willekeur te besoek". Kort daarna was die drukking teen die draad so groot gewees - ek het hom geroep en vir hom gesê, 'Kyk, jy moet vir jou mense sê hulle moet terugstaan; hulle moet nie so teen die draad lê nie, want as die draad breek en hulle kom in dat hulle binnekant die Polisiegronde kom, sal daar moeilikheid wees en ons wil nie moeilikheid hê nie'. Toe sê hy vir die mense hulle moet terugval, maar hulle het net teruggestaan as hy by hulle is. As hy sy rug draai, is hulle maar weer teen die draad.".

Visser se ontkenning dat hy so-iets aan Isolo gesê het word gestaaf deur speurder-konstabel Pietersen, sersant Moses Nkosi en speurder-konstabel Edwin Litelu. Die moontlikheid dat hulle dit nie gehoor het nie kan natuurlik nie uitgesluit word nie. Litelu het ook daarna verwys dat Visser en Isolo ook hoe godsdienstige sake bespreek het.

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173. Hoewel daar heelwat teenstrydighede en verwarring is, bewys die getuienis bo enige redelike twyfel dat n aansienlike gedeelte van die skare onder die indruk verkeer het dat hulle om 2-uur nm. deur n hooggeplaaste amptenaar toegespreek sou word. Dit is ook waarskynlik dat hierdie indruk gevolg het op wat Tsolo aan die skare meegedeel het. Sommige getuies het dit by die polisiestasie van Tsolo self gehoor, andere het dit te hore gekom omdat dit daar deur betogers bespreek was terwyl nog meer dit gehoor het voor hulle by die polisiestasie gekom het. Daar is getuienis dat die inligting reeds in omloop was voor Visser by die polisiestasie was. Indien so, dan kon Visser nie vir die ontstaan van die gerug verantwoordelik gewees het nie. Die Bantoe getuies was egter ook maar bra onbetroubaar wat skatting van tyd betref, en dit is dus moontlik dat hulle nie die gerug so vroeg as wat hulle voorgee te hore gekom het nie. Moses Smit, n lid van die Pan Africanist Congress - ek het reeds vantevore na sy getuienis verwys - koppel die ontstaan van die gerug aan n heel ander geleentheid. Hy sê dat nadat Tsolo die skare in Seeiso-straat toegespreek het, het hulle na die polisiestasie gegaan. Dit is sy getuienis oor wat daar gebeur het:

"At the Police Station, did you speak to any Policemen --- No. Tsolo spoke to the Policemen.

Did you listen, though? --- He spoke to the Police and after he spoke to the Police he came and told met what he had been speaking to that Police about.

Can you remember what he told you about what was said between him and the Police? --- Yes; I remember. He told me that he had come along with the complaint of the people who had come there with him, and he was coming to submit, also the crowd that were with him, there, to be arrested for not having their passes or reference books. That is

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what he told me he had told the Police.

And did he tell you what answer he got from the Police? --- The answer he got was - the Policemen he spoke to, were African Police, not Europeans. That was the answer given to him by them, that they had to wait until 2 o'clock when a European would turn up and a European would address them.

Did you know what European it would be? --- It was said, the Native Commissioner.".

Later in sy getuienis verwys hy weer daarna dat Tsolo so'n mededeling aan hom gedoen het nadat hy met blankes gepraat het.

174. Nog 'n lid van die Pan Africanist Congress, Masheledi, verwys in sy getuienis na die gerug. Hy sou gesien het dat Tsolo met 'n blanke praat. (Volgens sy beskrywing moes dit Visser gewees het). Hy getuig dan as volg:

"You say you saw Tsolo speaking to this man? --- Yes; with my two eyes.

And after Tsolo had spoken to him, did Tsolo come and speak to the crowd at all? --- After he had spoken to this European, he came and told us what he had been speaking to this European about.

And did he tell you anything else? --- He said that that Policeman had said that we had to go down there to the football grounds.

Did he say anything about anyone coming to talk to you? --- Yes. He said that at 2 o'clock one of the high officials of the Police would come there and speak to the gathering there about passes.

Did he ask you to do anything with this information? Did he ask you to carry it over, at all? --- Yes, he asked

me that.

What did he ask you to do? --- He said that I had to tell the people that we have to wait until 2 o'clock when this official would come there to address the crowd.

Some time after that, did the aeroplanes come over? --- Yes.".

In kruisverhoor verwys hy na n gesprek met sersant Nkosi waar laasgenoemde gesê het dat hy n boodskapper gestuur het om n blanke met n hoër rang te roep om met die kwessie van arrestasie te handel. Dan sê hy voorts dat Tsolo gesê het dat die polisie versoek het dat die skare na die voetbal-gronde moes gaan. Na die lede van die Pan Africanist Congress geweier het om dit te doen het die skare ook geweier. Die polisie sou toe gesê het dat die skare tot om 2 nm. moes wag. Die busdrywer, Joshua Motha (na wie ek ook hierbo verwys het) verwys ook na hierdie versoek dat die skare na die voetbal-gronde moes gaan. Sy getuienis lui as volg:

"Do you know a man called Tsolo? --- Yes.

Did you see him there? --- I did.

Did you hear him speak? --- At the time the aeroplanes were going over the Police Station, backwards and forwards, and I saw him, Tsolo, at that time, speaking to a European at the entrance to the Police Station. From there, he came to us. He then said to us that it had been said that we will get the reply at 2 o'clock. He then returned. When he came back from there, he then said 'It is said that we have to go to the football grounds'. He came out at the gate, and he said 'Follow me; we are going to the football grounds'. The people then said 'How! But it may be that they want these aeroplanes to collide with us. We are afraid to go to the football grounds'. If anything was

to be said, we would listen to what was to be said from here, where we stand, where we are.

Did Tsolo say anything about what time something might be said? --- Yes; he said at about 2o'clock.

Did he just say it himself, or did he indicate that someone had told him that? --- He said it was said.

And did he say who had said it to him? --- No. I only heard him saying 'It is being said' but I did not hear who had told him that or said that to him.".

Sersant Nkosi sê in sy getuienis dat Visser Tsolo versoek het om die skare aan te sê om na n oop terrein te gaan. Sy getuienis lui as volg:

"MR. CLAASSEN (THROUGH THE CHAIRMAN): Did you hear anything mentioned on that day about the people moving to the football grounds? --- I just heard this European say to Tsolo, 'Let your people move over to the open space of ground there' pointing towards it. That is all I heard. I saw Tsolo pointing with his arm like this and the people moved away in the direction as pointed by him. He then put down his hand and came back, and I saw the crowd moving back again.

MR. KENTRIDGE (THROUGH THE CHAIRMAN): Did you hear this white officer tell Tsolo what the people should do in the open ground? --- No.

Perhaps this man said something about the open ground that you did not hear? --- May be; it can happen.

Perhaps he said they must wait in the open ground? --- I don't know.

Otherwise why should they go to the open ground? --- I don't know. It may happen; I don't know.".

175. Nog Visser nog Tsolo gee enige getuienis met betrekking tot hierdie versoek dat die skare na die voetbalgronde moes gaan. In sy getuienis sê Visser dat hy Tsolo nooit direk gevra het om die skare te versoek om uiteen te gaan die Sy beskouing is dat hy nie geregtig was om so'n versoek aan Tsolo te rig nie en in elk geval ook nie in n sterk genoeg posisie was om handelend op te tree indien daar nie aan die versoek gehoor gegee word nie.

176. Daar is sekere omstandigheidsgetuienis wat Tsolo se relaas steun. Verskeie Bantoes getuig dat Tsolo die mededeling dat hulle tot 2-uur nm. moes wag, gedoen het onmiddellik na hy met die polisie gesels het. Wat sommige van hierdie getuies betref, het ek die indruk gekry dat hulle getuienis in hierdie verband aanvaar kan word. Dan is dit ook n feit dat sekere hooggeplaaste offisiere (o.m. luitenant-kolonel Pienaar en brigadier Els) onderskeidelik omstreeks 1-uur nm. en 2-uur nm. by Sharpeville aangekom het. Visser het ontken dat hy oor enige inligting beskik het wat dit vir hom moontlik sou gemaak het om soiets aan Tsolo te gesê het. Heyl het erken dat hy as gevolg van n telefoniese gesprek met die polisie hoofkwartiere in Johannesburg geweet het dat versterkings gestuur word maar ontken dat hy dit met Visser bespreek het. Dit kom my onwaarskynlik voor, maar ek kan nie die getuienis as vals verwerp nie. Dit is in kruisverhoor aan Visser gestel dat hy dit moontlik kon gesê het ten einde die skare in toom te hou. Hy het dit ontken. Dit is egter n feit dat hy bekommerd was oor die posisie by die polisiestasie.

177. Daarteenoor moet onthou word dat so'n voorwendsel bereken was om Bantoes na die polisiestasie te lok en hulle daar te hou. Dit is ook n feit dat die verspreiding van hierdie storie juis daardie gevolg gehad het.

178. Ek het reeds daarna verwys dat Tsolo se geloofwaardigheid onder verdenking is. Sy getuienis (asook die van Thomas More en Sidwell Kasa) was deur advokaat Claassen gelei en was nie aan deurtastende kruisverhoor onderwerp nie. (Advokaat Kentridge se skriftelike betoog stel dit dat hierdie getuies se getuienis deur die Kommissaris gelei was en dat advokaat Claassen kruisvrae aan hulle gestel het. Die stelling is geheel-en-al foutief). Waar ek bevind dat Tsolo nie 'n geloofwaardige getuie is nie, verlaat ek my in hoofsaak op waarskynlikhede en die getuienis van sy eie volgelinge wat voor my getuig het. Daar moet natuurlik onthou word dat hy in 'n onbenydenswaardige posisie verkeer het toe hy getuienis gegee het - hy was 'n verhoorafwagtende gevangene in verband met aanklagtes wat voortgespruit het uit sy beweerde aandeel aan die gebeure te Sharpeville op 21 Maart 1960. Sy getuienis dat hy van Visser verneem het dat 'n hooggeplaaste amptenaar om 2-uur nm. sou opdaag kan nie aanvaar word nie.

179. Ek is egter ook daarvan oortuig dat die verspreiding van die gerug nie bewys lewer van 'n opset om die skare na die polisiestasie te lok en daar te hou ten einde om 2-uur nm. 'n aanval op die polisiestasie te doen nie. 'n Moontlike uitleg van die ontstaan van die gerug is die volgende. Tsolo het sy volgelinge na die polisiestasie gelei met die doel om 'n geleentheid te skep waar hy en ander vrywilligers hulle ten aanskou van die skare vir arrestasie kon aanmeld. In hierdie verband het Tsolo heeltemal konsekwent opgetree. By sy aankoms by die polisiestasie het hy onmiddellik na sersant Nkosi gegaan en versoek dat hy en sy volgelinge aangehou moes word. Nkosi het hom meegedeel dat hy tot later moes wag sodat 'n blanke (en meer senior) polisie-amptenaar die saak kon afhandel. Tsolo getuig self dat hy hierdie inligting aan die

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skare oorgedra het. Daar moet onthou word dat dit vir Tsolo en sy volgelinge van belang was dat daar van polisie-kant 'n antwoord op die versoek om arrestasie gegee moes word. Die polisie moes hulle arresteer of weier om dit te doen voordat daar verder opgetree kon word. Die meerderheid van die Bantoe getuies stel dit dan ook dat hulle "vir 'n antwoord" gewag het. Die antwoord sou deur "n groot baas", "die groot sersant", die Bantoekommissaris, e.d.m., gegee word. Sommige getuies sê dat hulle nie geweet het wanneer die antwoord gegee sou word nie en ook nie 'n verwysing na 2-uur nm. gehoor het nie.

180. Volgens Tsolo het hy die kwessie van arrestasie weer by luitenant Visser geopper. Dit is onmoontlik om in besonderheid te bepaal wat tussen hulle plaasgevind het, maar dit is nogtans duidelik dat Visser nie "die antwoord" verstrek het nie. Hoewel daar getuienis is wat daarop dui dat Visser moontlik 'n voorstel gedoen het dat die skare na 'n oop terrein in die nabyheid moes gaan, het hy klaarblyklik nie daarop aangedring nie. Sy hele benadering was dat hy nog die reg nog die mannekrag gehad het om handelend op te tree en verkies het om op 'n besadigde manier op te tree totdat andere oor die saak besluit. Die skare het natuurlik aanskou hoe Tsolo en Visser met mekaar gesels, en Tsolo sou besef het dat hy die skare sou moes inlig oor die kwessie of "die antwoord" verstrek was. Die getuienis bewys dat hy die skare toe meegedeel het dat hulle tot om 2-uur nm. sou moes wag en dat hulle dan "die antwoord" sou verneem. Die moontlikheid dat Visser miskien na hierdie tyd verwys het of iets gesê het wat Tsolo onder die indruk gebring het dat uitsluitsel dan verwag kon word kan nie buite rekening gelaat word nie. Nog 'n moontlikheid is dat Tsolo self wou verseker dat die skare se belangstelling nie sou kwyn nie en dus die tyd uit eie beweging

genoem het. In hierdie verband moet ek aanstip dat Tsolo na hierdie mededeling vir n tydperk afwesig was. Kaptein Theron (wat omstreeks 11.45 vm. met versterkings opgedaag het) getuig dat hy na die leier van die skare verneem het en toe meegedeel is dat Tsolo gaan eet het. Advokaat Kentridge het heel tereg betoog dat dit as waarskynlikheidsoorweging ter stawing van Tsolo se relaas kan dien. Dit is egter na my beskouing net so waarskynlik dat Tsolo vir n tydperk afwesig wou wees, en dit was dus n praktiese manier om die skare se teenwoordigheid te verseker deur in die vooruitsig te stel dat die antwoord om 2-uur nm. gegee sou word. Tsolo wou moontlik oor verdere optrede beraadslaag. Daar moet onthou word dat die voorsitter van die Sharpeville-tak van die Pan Africanist Congress blykbaar nie by die betoging aanwesig was nie (soos ook die geval was by die betogers van Bophelong).

181. Ek het alreeds daarna verwys dat dit my beskouing is dat hierdie mededeling wat Tsolo gedoen het nie in verband gebring kan word met enige voorbedagte plan om die polisie of polisiestasie aan te val nie. Dit is eintlik oorbodig om dit te stel dat indien die gerug wel van Visser afkomstig was, daar by hom geen gedagte kon bestaan het dat die Bantoes aangemoedig moet word om by die polisiestasie te vergader sodat daar te gelegener tyd by wyse van bestraffing teen hulle opgetree kon word nie.

182. Vir sover dit die latere gebeure betref is dit egter van belang om in gedagte te hou dat n gedeelte van die skare heelwaarskynlik by die polisiestasie vergader en daar gebly het omdat hulle "die antwoord" om 2-uur nm. verwag het.

183. Na die gesprekke tussen Tsolo en Visser het die skare by die polisiestasie steeds aangegroei. Volgens Visser se getuienis was dit nie n gewapende skare nie. Dit is egter na

my beskouing heeltemal duidelik dat dit n luiddrugtige skare was, en dat hulle gedrag n gevoel van onrus by die polisie veroorsaak het. Selfs die getuienis van die leiers van die skare dui daarop dat beheer nodig was en ook deur hulle toegepas was. Tsolo, asook sy medewerkers, het steeds gewaarsku dat die skare nie teen die draadomheining moes leun nie. Daar was egter geen voorvalle van geweldpleging nie, en dit was slegs van die leiers wat die omheinde terrein binnegegaan het. Volgens Visser se getuienis sou Tsolo toe in staat gewees het om die skare te beheer, en sou hy as hulle leier erken gewees het.

184. Visser was inderdaad bekommerd oor die posisie, en dit blyk duidelik uit die feit dat hy later n nota aan kaptein Coetzee (wat toe nog in Seeiso-straat was) gestuur het waarin hy hom meegedeel het "dat die posisie raak hier so dat as daar moet geweld plaasvind ons nie in n posisie sal wees om die fort te kan hou nie en of hulle iets daaromtrent kan doen". Dit blyk dat hy hierdie nota omstreeks 11.30 vm. (of n bietjie vroeër) afgestuur het. Kaptein Coetzee het hierdie nota ontvang en meld in sy getuienis o.m., dat Visser die skare toe op tussen 8,000 en 10,000 geskat het.

185. Die getuienis dui daarop dat kaptein Coetzee hierdie nota ontvang het op die tydstip wat die Saracens onder bevel van kaptein Van der Linde aangekom het. Teen daardie tyd was die skare wat aanvanklik in Seeiso-straat teenoor die polisie stelling ingeneem het ook besig om in die rigting van die polisiestasie te beweeg. Kaptein Coetzee het toe met n omweg na die polisiestasie gegaan en in Zwane-straat in die nabyheid van die suid-oostelike hoek van die polisiestasie stelling ingeneem. Dit blyk dat hy 29 blanke en 62 Bantoe polisie onder sy bevel gehad het. Ek keer later terug na die gebeure in

Zwane-straat waarby hierdie groep polisie betrokke was.

186. Luitenant Visser verwys in sy getuienis na die aankoms van die polisie onder bevel van kaptein Coetzee. Hy verwys ook daarna dat verskeie vliegtuie duikvlugte oor die polisie-stasie uitgevoer het. Hy het later opgelet dat kaptein Theron met versterkings by die polisiestasie opgedaag het. Daarna was kaptein Theron in bevel van die polisie. Die versterkings wat hy gebring het, het uit 16 blanke en 9 Bantoe polisie bestaan. Hy het ongeveer 11.45 vm. (of moontlik n bietjie later) by die polisiestasie aangekom.

187. Teen die tyd wat kaptein Theron by die polisiestasie aangekom het, was die meerderheid van die skare wat vroeër in Seeiso-straat was reeds daar of op pad daarheen. Moses Smit getuig dat toe hy by die polisiestasie aangekom het (na hy die oorblywende gedeelte van die skare in Seeiso-straat gaan haal het) het hy opgelet dat van die polisie wat hy in Seeiso-straat gesien het toe reeds in Zwane-straat was (dit is die groep polisie onder bevel van kaptein Coetzee). Die strekking van die getuienis is dat kaptein Coetzee ongeveer 11.30 vm. in Zwane-straat stelling ingeneem het.

188. Na my beskouing is dit van belang om in gedagte te hou dat hierdie groep wat ongeveer 11.30 vm by die polisiestasie aangekom het waarskynlik nog in Seeiso-straat was toe die lugfoto (Aanhangsel "I") geneem was. Hierdie oorweging het betrekking op die waarskynlike grootte van die skare toe kaptein Theron daar aangekom het. Dit is ook waarskynlik dat die meerderheid van hierdie groep betrokke was by voorvalle waar die polisie en die betogers slaags geraak het, waar klippe gegooi en met vuurwapens geskiet is. Dat lede en ook ampsdraers van die Pan Africanist Congress by hierdie voorvalle

betrokke was of ten minste daarvan geweet het moet aanvaar word. Ene Ramodebe (ek meen hy was tesourier van die Sharpeville-tak) het na die polisiestasie gekom en aan Moses Smit vertel van die moeilikheid in Seeiso-straat. Dit is hoe Smit dit stel:

"Do you know someone called Ramodebe? --- I do.

Did he come along to the Police Station at about this time? --- Yes; he did.

And did he have something to tell you? --- Yes.

What was that? --- He told me that these people that come from the new place, they call it Putso Stene, were being stopped by the Police, that was why they could not come through.

Could not come through where? --- The Police could not come - not the people.

Did he report anything else to you about what the people had done? --- He said they came, they were many they made a noise, they wanted to fight.

That is the African people? --- That is the way he told me, yes.

So, when you had had this report, did you then leave the Police Station? --- Yes; I did.

With anyone else? --- With a person named Gwadi.

Where did you go to? --- I went to Putso Stene.

That is a part of the location up near the Municipal Offices? --- That is where you enter, where you go into the location.

And on your way, did you pass people who were standing in Seeiso Street? --- Many of them, yes.

Were they doing anything? --- There were groups and groups of them together.

Were they fighting? --- Standing, talking; not fighting

THE CHAIRMAN: What time was this? --- About ten, or after ten.

Was that still before, or after the aeroplanes flew over? --- Before.".

Moses Smit se getuienis oor wat hy waargeneem het toe hy by die groep in Seeiso-straat gekom het word hierbo aangehaal. Wat egter ook uit sy getuienis blyk is dat afgesien van hierdie groep hy ook nog ander groepe in Seeiso-straat aangetref het, dit is groepe wat nie in die onmiddellike omgewing van die polisie was nie. Dat laasgenoemde groep hoofsaaklik uit jong mans bestaan het en dat hulle vyandiggesind teenoor die polisie was blyk nie alleen uit die polisie getuienis nie maar ook uit die getuienis van lede van die Pan Africanist Congress. Hierdie groep - die bittereinders wat Seeiso-straat betref - het saam met Moses Smit en Qwade na die polisiestasie gegaan. Hoewel die getuienis in hierdie verband skraal is, is dit na my beskouing waarskynlik dat hierdie groep eerder aan die westelike en noordwestelike kant van die polisiestasie as aan die suidelike kant daarvan sou gaan staan het - al is dit dan net omdat daar moontlik meer staanplek was. Hoofkonstabel Heyl se getuienis (soos ek dit altans verstaan) is dat die skare aanvanklik aan die suidekant teenoor die publieke ingang na die polisiestasie gestaan het. Dan verwys hy daarna dat "later die middag was die rumoer en die groot samedromming meer na die westekant verskuif, waar die groot hek was". Hy wyt dit aan die feit dat polisievoertuie daar ingekom het. Ek meen dat dit ook waarskynlik is dat die aankoms van die groep onder Moses Smit en Qwade tot die "rumoer en groot samedromming" aan die westekant bygedra het.

189. Kaptein Theron het omstreeks 11.40 vm. by die ingang na

Sharpeville aangekom en hom by majoor Van Zyl by die munisipale kantore aangemeld. (Laasgenoemde sou toe net van sy besoek aan die polisiestasie teruggekeer het). Majoor Van Zyl het hom opdrag gegee om na die polisiestasie te gaan en ook gelas dat n Saracen hom begelei. Kaptein Théron het sy manskappe beveel om hulle gewere te laai en het toe na die polisiestasie gegaan. Op pad het hy talle Bantoes teëgekom. Sy rit na en aankoms by die polisiestasie beskryf hy as volg:

> "Talle Bantoes het ons op pad ontmoet, na die Polisiestasie. Hulle het met duime in die lug 'Afrika!' geskree, na ons rigting; ander het ander dinge geskree wat ek nie kon hoor nie. 'Afrika!' was vir my duidelik gewees. Ons is toe na die aanklagkantoor, na die Polisiestasie in Sharpeville. Toe ons daar kom, het ek n gesig aanskou wat my geskok het. Daar het duisende Bantoes, mans, vrouens en kinders, rondom die Polisiestasie saamgedrom. Hulle het geraas, lawaai. Ander was nog besig om aan te kom, ook na die Polisiestasie-toe. Toe ons by die skare kom, het hulle met duime in die lug voor die saracen en voor my voertuig, ook, ingespring en 'Afrika!' geskree. Dit het vir my geskyn asof hulle ons wou verhoed om in te gaan. Ons het uiteindelik daarin geslaag om deur hulle te kom, en ek is by die hek van die Polisiegronde in.
>
> Het jy op daardie stadium enige wapens in hulle besit gesien? --- Daar was n aroep wat met kieries in die lug geswaai het. Dit is wat ek gesien het.".

Volgens sy skatting sou daar van 10,000 na 15,000 Bantoes by die polisiestasie gewees het toe hy daar aangekom het.

190. By sy aankoms was vliegtuie besig om duikvlugte oor die skare te doen. (Die getuienis dui daarop dat die vliegtuie

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by meer as een geleentheid gedurende n tydperk van nagenoeg 15 tot 30 minute oor Sharpeville gevlieg het). Die skare was nie deur hierdie optrede van die vliegtuie beïnvloed nie.

191. Kaptein Theron het die posisie met luitenant Visser bespreek en o.m., verneem of daar n leier van die skare was. Visser het na hom gesoek maar later gerapporteer dat die leier (Tsolo) afwesig was omdat hy iets te ete gaan soek het. Theron sê dat die posisie na sy beskouing so gevaarlik was dat hy besluit het om geen stappe te doen om die skare uiteen te laat gaan nie. Hy sê dat die skare opgewonde was en dat van hulle ook dreigemente geuiter het. Van die Bantoevrouens het in die rigting van die polisie gespoeg. Hy't ook gesien dat die skare teen die draadomheining druk en dit oorbuig. Daar was egter geen gevalle van werklike geweldpleging nie. Hy beskryf die posisie as volg:

"Die posisie het later toe so ontvlambaar geword, ek moet liewers op hierdie stadium niks doen nie; en ek het gevolglik oor die radio van die saracen met majoor Van Zyl gepraat, buitekant na die Munisipale huis-toe, en ek het vir hom die posisie daar geskets en vir hom gesê ek dink die dinge lyk gevaarlik, hier, of daar dan nie versterkings kom nie. Toe het hy vir my gevra of ek nog n bietjie kan aanhou, daar. Ek het gesê ja, ek sal probeer nog n bietjie aanhou.

Met ander woorde, verstaan ek dat jy dit nie raadsaam geag het om iets daadwerklik te doen om hulle uitmekaar te jaag nie? --- Ek kon aan niks dink nie. Ek het dit nie raadsaam geag nie.

En het jy gepoog om met hulle te praat? --- Ek het een tyd met een daar naby die hek probeer praat, maar hulle het so geraas en geskree dat ek nie weet of hulle gesien

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het ek praat, of gehoor het ek praat nie.".

192. Gedurende die tyd wat kaptein Theron in bevel was het 'n Bantoe 'n kissie met 12 bottels koeldranke na die polisie gebring. Die polisie het dit as 'n daad van uittarting beskou en die Bantoe versoek om dit te verwyder. Die skare het daarop aangedring dat hy die koeldranke daar moes laat bly. Uiteindelik het die Bantoe dit verwyder. Daar het egter niks noemenswaardig plaasgevind nie. Die skare het steeds aangegroei, en kaptein Theron het dit gerade geag om die vrede te bewaar.

193. Hoewel daar moontlik intussen (of selfs voor kaptein Theron aangekom het) kleiner groepe versterkings opgedaag het, is die volgende gebeurtenis van belang, die aankoms by die polisiestasie van 'n groep offisiere en ander range. By die groep was onder meer kolonel Prinsloo, luitenant-kolonel Spengler, kaptein Willers, sersant Wessels (almal van die Veiligheidsafdeling van die Suid-Afrikaanse Polisie), kaptein Brummer (wat in bevel van 3 Saracens was) en luitenant Freemantle. Hierdie groep het waarskynlik enkele minute na 1-uur nm. by Sharpeville polisiestasie aangekom.

194. Kaptein Brummer het sy 3 Saracens binne die omheinde terrein aan die westekant van die polisiestasie opgestel. Saam met die Saracen wat kaptein Van der Linde reeds omstreeks 11.30 vm. daar opgestel het was daar dus nou 4 Saracens by die polisiestasie.

195. Die algemene strekking van die getuienis van die polisie is dat die skare besonder vyandiggesind was. Daar is op die polisie geskel en dreigemente is hulle toegeslinger. Daar is ook 'n verwysing na die feit dat 'n gedeelte van die skare,(vermoedelik dié aan die westekant naby die hek) stokke

en kieries geswaai het. Daar was verwysings na "Cato Manor". (U Eksellensie dra stellig kennis van die voorval in n Bantoe woonbuurt naby Durban waar 9 polisie-amptenare - Blank en Bantoe - deur n skare Bantoes om die lewe gebring is. Aangesien daar op die oomblik na aanleiding van hierdie voorval n strafsaak dien waar Bantoes op n aanklag van moord verskyn is dit nie vanpas om enige verdere kommentaar in verband daarmee te lewer nie). Volgens kaptein Brummer sou klippe die Saracen getref het terwyl hulle op pad na die polisiestasie was. Daarteenoor het advokaat Kentridge betoog dat die getuienis daarop dui dat die skare deurgaans in n gemoedelike stemming was. Ek keer hieronder terug na hierdie aspek van die gebeure by die polisiestasie.

196. Volgens kaptein Brummer sou hy onmiddellik na sy aankoms n luidspreker geneem het en pogings gedoen het om die skare toe te spreek. Daar is n geskil oor die aantal kere (indien enige) wat hy die skare toegespreek het of altans probeer het om dit te doen. Ek meen dat dit waarskynlik is dat hy by meer as een plek die skare toegespreek het of probeer het om dit te doen. Wat egter duidelik blyk is dat hy hoegenaamd nie daarin geslaag het om enige indruk op die skare te maak nie. Dit is te betwyfel of hy sonder die hulp van die leiers die skare sou kon toegespreek het. Thomas More gee trouens in sy getuienis te kenne dat die polisie slegs met die toestemming van die leiers met die skare sou kon gepraat het. Luitenant Freemantle het ook na die gemoedstoestand van die skare verwys. Hy sê ook dat daar op die polisie geskel was. Hy het, onder meer, uitroepe van "Polisiehonde" gehoor. Van die Bantoes het ook gesê: "Vandag vrek julle almal hier". Die "Afrika" kreet is ook aangehef. Hy sê ook dat hy kieries gesien het, hoewel daar geen poging was om die polisie aan te rand nie. Bantoes het tot teenaan die motorkar gedring en

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met hulle hande daarop geslaan. Ek lei van sy getuienis af dat dit in die omgewing van die hek aan die westekant plaasgevind het.

197. Daar is nou ook vir die eerste keer van polisie kant handelend opgetree. Luitenant-kolonel Spengler sê dat die Bantoes baie oproerig was en die polisie uitgejou het. Kort na sy aankoms het hy 'n Bantoe binne die omheinde terrein opgelet. Sersant Wessels het hom meegedeel dat dit Tsolo is. Spengler het hom genader en gevra wat hy soek. Tsolo sou toe omgedraai het, na die skare gekyk het en gesê het: "I represent these people". Op 'n vraag hoekom die skare nie huistoe gaan nie het Tsolo geantwoord: "We will not call this off unless Sobukwe has spoken". (In die pamflet - Aanhangsel "F" - word dit gestel dat "Nobody will call this campaign off, except the National President ....").
Sprengler het Tsolo na 'n kantoor in die polisiestasie geneem waar hy eers om sy bewysboek gevra is en later ook in verband met die betoging ondervra is. Dit blyk dat Tsolo heeltemal gewillig was om luitenant-kolonel Spengler te vergesel. Hierdie voorval het blykbaar geen besondere reaksie van die kant van die skare uitgelok nie. Sprengler ontken dat hy Tsolo gearresteer het. Sy oogmerk was om Tsolo van die skare te verwyder omdat dit wenslik was om alleen met hom te praat. Hoe dit ookal sy, Tsolo het nie weer by die skare aangesluit nie en was nog steeds binne die kantoor toe die polisie op die skare gevuur het. Kort daarna is Thomas More opgelet. Sy antwoord op Spengler se navraag oor wat hy soek was, "I represent these people. We want our freedom". More het Spengler toe gewilliglik na die polisiestasie vergesel. Ook hy het nie weer na die skare teruggekeer nie en was binne die polisiestasie tydens die skietvoorval. Die skare het blykbaar

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in sy geval ook nie tekens van ontevredenheid geopenbaar nie, hoewel hulle volgens die polisie getuienis nog steeds besonder rumoerig was. Die twee belangrikste leiers was dus nou van die skare verwyder, en Spengler het die hoop gekoester dat dit n heilsame uitwerking sou hê. Die skare, of altans die van hulle wat bewus was van die gerug dat n antwoord aan hulle verstrek sou word, sou vermoedelik onder die indruk verkeer het dat Tsolo en More met die polisie samesprekings voer.

198. Luitenant-kolonel Spengler het weer na die hek aan die westekant gegaan en nog n Bantoe gesien wat voor die skare beweeg het. Hy was egter aan die buitekant van die hek. Op daardie tydstip het luitenant-kolonel Pienaar met nog versterkings opgedaag en was hy ook van toe af in bevel van die polisie by die polisiestasie.

199. Luitenant-kolonel Pienaar, wat te Johannesburg gestasioneer is, het voor my getuig en sy getuienis was aan deurtastende kruisverhoor deur advokaat Colman onderwerp. In sy getuienis sê hy dat die polisie oor inligting beskik het dat betogings gehou sou word. Dit is egter te betwyfel of hulle voor Vrydag (18 Maart) geweet het dat die betogings op 21 Maart sou plaasvind. Die verwagting was dat dit op n landswye grondslag kon plaasvind. Voor die Maandag was daar blykbaar geen rede om te vermoed dat die distrikte Vanderbijlpark en Vereeniging besondere aandag sou moes ontvang nie. Pienaar het persoonlik verwag dat die posisie in die suidwestelike gebied van Johannesburg distrik veral moeilik sou wees. n Algemene opdrag is gegee dat patrollies vroeg op straat moes wees om werkers wat na hulle werk wou gaan te beskerm.

200. Hy het Sondagaand om 11.30 van kaptein Cawood verneem

van polisie-optrede in Sharpeville. Maandag om 7-uur vm. het hy n verslag van majoor Van Zyl ontvang en as gevolg daarvan het hy aan verskeie polisiestasie in die Johannesburgse gebied opdrag gegee om versterkings na Vanderbijlpark en Vereeniging te stuur. Om 10-uur vm. het Pienaar self opdrag ontvang om na Vanderbijlpark en Vereeniging te gaan om die posisie ter plaatse te hanteer. Hy het eers na Vanderbijlpark gegaan waar hy die posisie met kaptein Cawood bespreek het. Luitenant Claassen, wat in bevel was van ongeveer 29 blanke en 14 Bantoe polisie, het by luitenant-kolonel Pienaar aangesluit en die hele groep het na Sharpeville vertrek.

201. Luitenant-kolonel Holmes en majoor Van Zyl was by die munisipale kantore by die ingang na Sharpeville toe luitenant-kolonel Pienaar daar aangekom het. Majoor Van Zyl het hom meegedeel dat hulle op brigadier Els wag wat na die polisiestasie sou gaan. Die verdere inligting wat aan Pienaar daar verstrek was is, onder meer, dat die polisiestasie deur ongeveer 20,000 Bantoes omsingel was en dat die posisie gevaarlik was. Majoor Van Zyl het hom ook meegedeel dat hy die môre reeds sonder sukses gepoog het om die skare uiteen te jaag. Hy het daarna verwys dat traangas sowel as knuppels gebruik was en dat daar op die polisie gevuur was. Hy het Pienaar ook meegedeel dat die skare in n aggressiewe gemoedstoestand was en dat enigiets te wagte was. Dit is te betwyfel of van Zyl bedoel het om voor te gee dat al hierdie gebeure by die polisiestasie plaasgevind het, maar dit is heeltemal duidelik dat Pienaar onder die indruk verkeer het dat die pogings om die skare uiteen te jaag by die polisiestasie plaasgevind het. Uit die aard van die saak sou dit sy benadering tot die skare by die polisiestasie beïnvloed het. Hy is ook meegedeel dat kaptein Theron by die polisiestasie

in bevel was en dat daar ongeveer 100 polisie (blank en Bantoe) beskikbaar was.

202. Luitenant-kolonel Pienaar het na die polisiestasie vertrek. Die versterkings onder luitenant Claassen waarna ek verwys het, het hom vergesel. Die hele groep is deur n Saracen begelei. Pienaar beskryf sy aankoms by die polisie-stasie as volg:

"As I turned off the main road on the road to the station, I saw this large crowd there. I estimated it to be between 20,000 and 25,000. From a point of about 300 yards from the station, they were massed together. The first thing I saw was, in the middle of the road, a small car, which had been battered and was being pulled about. I could not see then, properly, what was happening; it was surrounded by a dense crowd. I could not properly see what was happening but I concluded that the occupants were being assaulted or probably killed. I instructed the driver to circumvent that portion of the mob on the pave-ment, and we drove along amongst this mob. On the way, I could see them prancing around, giving the 'Afrika!' sign, and kerries were swung in the air.

Many kerries, or just a few? --- Quite a number - not all of them. When I reached the point opposite the gate, there were about three, I should say, they were about three deep before I could get through to the gate. At that point, they would not let me through; they would not give way. They started to strike my car with sticks. I gave the driver the order to speed the car through the remaining mob; he did so, and they were flung aside and we managed to get inside.".

In die verbygaan kan ek net meld, dat Pienaar die enigste getuie is wat na die voorval waarby die ligte motorkar betrokke was verwys. Hy het geen stappe toe of later gedoen om vas te stel wat daar gebeur het nie. Hy sê dat die voorval hom ontgaan het na hy by die polisiestasie aangekom het.

203. Pienaar se getuienis dat daar met stokke en ander voorwerpe teen sy motorkar geslaan is kan aanvaar word. Daar was blykbaar ook n poging gedoen om die motorkar vas te hou. Luitenant Claassen wat saam met luitenant-kolonel Pienaar in die motorkar was sê in sy getuienis dat iemand na hom (dit is Claassen) met n stok geslaan het, maar hom nie raak gesien het nie.

204. Luitenant-kolonel Pienaar se gemoedstoestand onmiddellik na hy die polisiestasie bereik het blyk uit die volgende passasie in sy getuienis.

"When I landed in de that yard that morning, from all I had seen and been told, and what I had personally experienced, I was satisfied that that mob was ready for anything. The mob was in a frenzied state and I fear an attack on the police at any moment".

205. Die stelling ten behoewe van sekere belanghebbendes was dat die getuienis daarop dui dat die skare nooit meer as 3,000 persone getel het nie, dat hulle te alle tye in n gewondelike stemming was, dat hulle nie gewapen was nie en dat hulle na die polisiestasie met n aggressiewe opset gekom het nie maar slegs vergader het en daar gebly het om die verwagte toespraak aan te hoor.

206. Voor ek daartoe oorgaan om verslag te doen oor die gebeure by die polisiestasie na die aankoms van luitenant-kolonel Pienaar ag ek dit nuttig om U Eksellensie se

duidelike beeld as moontlik te gee van die posisie wat daar by sy aankoms bestaan het. Ek verwys eerstens na die polisie en vervolgens na die skare.

207. Ek heg hierby aan n skedule wat aandui die aantal offisiere, onderoffisiere en konstabels wat op die perseel van die polisiestasie aanwesig was nadat luitenant-kolonel Pienaar daar aangekom het. (Aanhangsel "K"). Hierdie skedule dui ook aan die aard van die bewapening, hoeveel ammunisie uitgereik is en hoeveel skote afgevuur is. n Soortgelyke skedule wat betrekking het op die polisie in Zwane-straat onder bevel van kaptein Coetzee word ook aangeheg (Aanhangsel "L"). Die skedules is by benadering korrek. Die getuienis het egter aan die lig gebring dat 2 konstabels wat in Zwane-straat was ook geskiet het. (Ek verwys later na hierdie voorval). Daar het ook later n vraag ontstaan of die gegewens wat betrekking het op die aantal rondtes wat gevuur was betroubaar is. Kaptein Van den Berg, wat die skedules opgestel het, het sy inligting verkry van opgawes wat na die voorval opgestel is ten einde persone wat gevuur het in staat te stel om n aanvullende uitreiking van ammunisie te ontvang. Die strekking van die getuienis van sommige van die polisie getuies was dat die opgawes verkeerdelik aangedui het dat hulle geskiet het of andersins aangedui het dat hulle meer rondtes gevuur het as wat werklik die geval was. Hoewel dit natuurlik moontlik is dat sommige polisie-amptenare die geleentheid te baat geneem het om hulle ammunisie-voorraad op n onbehoorlike manier aan te vul, het die getuienis my hoegenaamd nie oortuig nie. Advokaat Kentridge het met n groot mate van regverdiging betoog dat sommige getuies in hierdie verband die Kommissie wou mislei het. Hoe dit ookal sy, die gegewens kan vir alle praktiese doeleindes aanvaar word.

208. By die polisiestasie was daar dus 130 blanke en 77 Bantoe polisie, terwyl daar in Zwane-straat 29 blanke en 59 Bantoe polisie was. Die blanke polisie was met vuurwapens gewapen, terwyl die Bantoes assegaaie, kieries en knuppels gedra het. Wat die vuurwapens betref kan ek verduidelik dat die .25 pistool deur lede van die speurdiens gedra word terwyl die .38 rewolwer deur lede van die uniform-afdeling gedra word. Die .303 geweer is die gewone tipe wat aan die polisie van die uniform-afdeling uitgereik word. Die sten-geweer is n 9 mm. kaliber outomatiese wapen, met n magasyn wat van 25 tot 30 rondtes bevat en wat teen n snelheid van 500 rondtes per minuut vuur. Dit kan ook enkel skote vuur teen 30 rondtes in ongeveer 12 sekondes. Die Browning masjiengeweer wat bo-op elke Saracen gemonteer is kan blykbaar 450 tot 500 rondtes per minuut vuur teen n snelheid van 1200 rondtes per minuut.

109. Die ammunisie wat uitgereik is, is van die gewone tipe, en daar bestaan geen rede om te vermoed dat enige polisieman ammunisie gebruik het wat bereken was om maksimum verminking te veroorsaak nie (soos bv. "dum-dum" koeëls). Ek meld dit omdat daar blykbaar n gerug versprei is dat die polisie spesiale ammunisie sou gebruik het, en dat dit ernstige en onnodige beserings sou veroorsaak het. Opslagkoeëls kan blykbaar baie skade aanrig. Dit blyk ook uit die getuienis dat as gevolg van die betreklike kort loop van n sten-geweer die koeëls neig om in vlug te tuimel. Indien die koeël dan die liggaam tref sou dit meer ernstige verwonding veroorsaak. Indien die gerug wel versprei was sou dit eerder dui op oorgretigheid om die polisie te beswadder as n begeerte om die waarheid tot diens te wees.

210. Die getuienis dui daarop dat lede van die polisiemag onderrig ontvang het in verband met die gebruik van alle

vuurwapens. Die polisie is ook gebonde aan die voorskrifte van Staande Orders wat op die gebruik van vuurwapens betrekking het. Ek heg hierby aan n afskrif van Staande Orders Nos. 741 tot en met 749. (Aanhangsel "M"); dit het betrekking op die gebruik van vuurwapens.

211. Soos uit Aanhangsel "K" blyk het die polisie van verskeie polisiestasies gekom en baie van hulle het mekaar gladnie geken nie. Daar was manne met meer as 20 jaar diens en ten minste een wat slegs n maand of wat vantevore sy opleiding voltooi het. Heelparty van die offisiere en ander range het diens tussen die Bantoes gedoen en sommige van hulle het reeds vantevore met Bantoe skares te doen gehad. Baie van die manne (veral die van Vereeniging en Vanderbijlpark) was reeds vanaf Sondag op diens. Al die getuies is dit eens dat die polisie by die polisiestasie vanaf vroeg die môre tot die aankoms van luitenant-kolonel Pienaar niks gedoen het wat bereken was om vyanddiggesindheid van die kant van die skare te veroorsaak of te laat toeneem nie. Daar moet egter onthou word dat daar ook n aantal polisie was wat reeds gedurende die vorige nag en die môre betrokke was by voorvalle wat bereken was om hulle gemoedstoestand te affekteer. Dit is ook nie te betwyfel dat die meerderheid van hulle by geleentheid aan die voorval by Cato Manor gedink het nie.

212. Die Kommissie is oorlaai met skattings oor die grootte van die skare wat omstreeks 1-uur nm. by die polisiestasie aanwesig was. Die hoogste skatting is die van Tsolo self. Hy sê dat hy waargeneem het hoe die skare aangegroei het en later van oordeel was dat al die inwoners van Sharpeville aanwesig was. Sy getuienis verdien nie ernstige oorweging nie. Die ander skattings strek enkele duisende na 20,000 en nog meer. Wat hierdie getuie betref het n mens te doen

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met sowel die feilbaarheid as die eerlikheid van die getuies. Na my beskouing is dit waarskynlik dat die **sameloop** van omstandighede as gevolg gehad het dat n groter skare byeengekom het as wat miskien andersins die geval sou gewees het. Die vergaderplek was binne die woonbuurt gelee. Die doel van die betoging sou in n mindere of meerdere mate die belangstelling van feitlik al die volwassenes gewek het. Afgesien van wat gedurende die naweek gedoen is om die betoging te propageer, was daar ruim en volgehoue publisiteit vanaf die vorige nag tot omstreeks 1-uur nm. op die Maandag. Die middernagtelike optrede van sowel die Bantoes as die polisie asook die gebeure in Seeiso-straat was bereken om volgelinge van die Pan Africanist Congress, belangstellendes en gewone nuuskieriges (mans, vrouens en kinders) te lok. n Belangrike faktor is die sukses van die verskeie metodes wat toegepas is om te verseker dat die inwoners nie na hulle werk kon gaan nie. Die uitvoering van duikvlugte oor die polisiestasie en die gereelde beweging van polisie-voertuie (wat vier Saracens ingesluit het) van en na die polisiestasie sou steeds meer en meer inwoners gelok het. Dan was daar ook nog die verspreiding van die gerug in die woonbuurt dat n toespraak om 2-uur nm. verwag kon word.

213. Daar is egter getuienis wat gebruik kan word om die verskeie skattings in n mate te kontroleer. Daar moet onthou word dat daar 8,655 volwasse mans, 6,943 volwasse vrouens en 20,863 kinders onder die ouderdom van 18 jaar as inwoners van Sharpeville geregistreer is. Uit die getuienis van Labuschagne blyk egter dat 19 van die wat oorlede is en 46 van die verwondes nie as inwoners geregistreer was nie. Hulle was dus of inwoners wat onwettiglik daar woonagtig was of persone wat van buite Sharpeville gekom het om aan die

betoging deel te neem. Dis onmoontlik om te bepaal hoeveel van hierdie kategorie persone die dag aanwesig was. As daar gelet word op die verhouding tot die groot totaal van oorledenes en verwondes kon dit moontlik n aansienlike getal gewees het. Dit sou vermoedelik Bantoes van die dorp gewees het (waar n groot aantal by huise van werkgewers inwoon of in privaat kampongs loseer) en ook moontlik van Boiphatong (wat blykbaar 2 myl van Sharpeville geleë is). Dan is daar die lugfoto (Aanhangsel "I") wat n indruk gee van die skare wat omstreeks 11 vm. by die polisiestasie aanwesig was - dit was ruim twee-en-n-half uur voor die polisie op die skare gevuur het. Die fotograaf, Von Below, skat die skare op 4,000 na 5,000 persone. Na my beskouing is dit waarskynlik dat daar toe reeds etlike duisende betogers was. Na die foto geneem was het die skare steeds aangegroei, heelwaarskynlik as gevolg van al die gebeure waarna ek reeds verwys het. Na Moses Smit en Qwade die betogers in Seeiso-straat toegespreek het sou n betreklike groot skare vanaf die rigting van Putso-stene na die polisiestasie beweeg het. As daar op al hierdie omstandighede gelet word, blyk dit baie waarskynlik dat Elias Lidia en die fotograaf, Berry (na wie ek later weer verwys) se skattings dat daar omtrent 5,000 persone aanwesig was toe die polisie gevuur het, nie eers as naasteby korrek aanvaar kan word nie. Lidia se ander skattings is na my beskouing klaarblyklik onbetroubaar. In sy getuienis het Berry verduidelik dat hy nie graag n skatting wou waag nie, onder meer, omdat hy nie n behoorlike blik op die noordwestelike hoek gehad het nie. Hy het egter die indruk gekry dat die skare aan die westekant naby die hek digter as elders saamgepak was. Onder druk het hy toe geskat dat daar n "tennis-skare" aanwesig was, en dit op van

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4,000 tot 5,000 gestel. (Dit is interressant om daarop te let dat ene Humphrey Tyler, assistent-redakteur van die tydskrif waaraan Berry as fotograaf verbonde is, n verslag van die gebeure opgestel het wat sowel in Suid-Afrika as in die buiteland gepubliseer is, en dat hy daarin meld dat daar slegs 3,000 persone tydens die skietvoorval aanwesig was. Tyler was saam met Berry in die omgewing van die polisiestasie vanaf ongeveer 1-uur nm. tot ongeveer 1.45 nm.). Sommige polisie-getuies het getuig dat die skare bankvas oor die hele straat gestaan het. Te oordeel na fotos wat van gedeeltes van die skare geneem is, is dit my beskouing dat daardie getuienis nie betroubaar is nie en gewyt moet word of aan foutiewe waarneming of aan n neiging tot oordrywing. Uit die aard van die saak is dit n moeilike taak om die grootte van n skare te skat. Waar ek nou self tot skatting moet oorgaan sou ek dit stel dat daar waarskynlik nie minder as 10,000 betogers was toe die polisie op die skare gevuur het nie.

214. Hoewel die grootte van die skare vanselfsprekend n kwessie van belang is, is dit na my beskouing van die uiterste belang om te bepaal wat die houding van die skare as n geheel was asook om vas te stel of daar enige gedeelte van die skare was wat n houding van hulle eie gehad het. Advokaat Kentridge se betoog was dat die skare as n geheel deurgaans in n gemoedelike stemming was. Die strekking van die polisie-getuienis was dat die skare as n geheel opstandig was, maar dat die gedrag van dié wat aan die westekant was sodanig was dat dit die meeste kommer veroorsaak het.

215. Na my beskouing is daar sekere waarskynlikhede wat gewig dra. Dit is korrek dat n betreklik aansienlike gedeelte van die skare daar was omdat hulle op die een of ander manier verhoed was om na hulle werk te gaan en om verskeie redes na

die polisiestasie gegaan het. Daar was lede van die Pan Africanist Congress, gewone belangstellendes, nuuskieriges, enkelinge wat om die of daardie rede hulle in die omgewing van die polisiestasie bevind het en toe by die skare aangesluit het, e.d.m. Daar was geen werklike saamhorigheidsgevoel wat voortgespruit het uit n voorbedagte opset wat hulle tot enige bepaalde gesamentlike optrede verbind het nie. Die meerderheid het op "die antwoord" gewag en die tyd met skerts, sang en die aanhef van nasionalistiese krete verdryf. Enkelinge mag die polisie uitgejou het. Advokaat Kentridge se betoog was dat hierdie stemming bly voortbestaan het totdat die polisie op die skare gevuur het.

216. Na my beskouing is dit n te oppervlakkige benadering wat nog met die feite nog met die waarskynlikhede rekening hou. Hoewel dit blyk dat die meerderheid van hulle met reg as gewone wetsgehoorsame persone beskryf is, moet onthou word dat die dag vir hulle as van buitengewone belang voorgehou is. Reeds vanaf die vorige nag was n groot aantal van die betogers waarskynlik betrokke by voorvalle wat hulle gemoedstoestand sou aangetas het. Die gebeure in Seeiso-straat (selfs al sou die polisie-getuienis as oordrewe beskou word) was kwalik bereken om die betogers wat daarby betrokke was tot n gemoedelike stemming oor te haal. Die oorwig van getuienis bewys na my beskouing dat n aansienlike gedeelte van die skare by die polisiestasie bestaan het uit betogers wat vroeër in Seeiso-straat was. U Eksellensie sal onthou dat daar getuienis is dat Tsolo met n skare vanaf die omgewing van Putso-stene na die polisiestasie gekom het. Daar is die verdere getuienis dat n skare vanaf omstreeks 11-uur vm. vanaf Seeiso-straat in die rigting van die polisiestasie beweeg het en dat dit die groep jonger Bantoes wat in n veglustige bui was ingesluit het. Moses Smit stel dit in

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sy getuienis dat hierdie groep bedaar het na Qwade met hulle gepraat het. Ek meen dat hierdie getuienis aanvaar kan word aangesien ander getuies ook daarna verwys dat die leiers wel n mate van beheer uitgeoefen het waar hulle in kontak met die skare was. Die omstandighede waaronder hulle vir n lang tydperk by die polisiestasie verkeer het was egter na my beskouing bereken om hulle veglustigheid weer op te wek. Ek verwys later na hierdie omstandighede.

217. Advokaat Kentridge het na enkele ander omstandighede verwys ter ondersteuning van sy betoog dat die skare as n geheel nie vyandiggesind was nie, en dat die polisie-getuienis wat op die teendeel dui nie aanvaar kan word nie. Hy het, eerstens, daarna verwys dat majoor Van Zyl se getuienis oor die gedrag en stemming van die skare vreemd klink in die lig van sy optrede waar hy luitenant Visser in beheer van die polisiestasie gelaat het totdat kaptein Theron omstreeks 11.45 vm. van hom die bevel oorgeneem het. n Mens sou verwag het dat majoor Van Zyl self by die polisiestasie die bevel sou gevoer het indien die posisie dan inderdaad gevaar ingehou het. Aldus advokaat Kentridge. Na my beskouing is dit n geoorloofde benadering om n getuie se relaas van die gebeure te toets aan sy optrede tydens daardie gebeure. Maar dan moet daar op al die omstandighede gelet word. Advokaat Kentridge het die spoor byster geraak omdat hy dit nie gedoen het nie. Daar moet onthou word dat die posisie in Seeiso-straat aanvanklik meer gevaar ingehou het veral waar gewaak moes word teen n moontlike opmars na Vereeniging. Hierdie moontlikheid het eers omstreeks 11-uur vm. opgehou om te bestaan. Daar was ook geen telefoon-verbinding tussen Sharpeville en Vereeniging nie en radio-verbinding het vir die eerste keer moontlik geword toe die Saracen omstreeks 11.30 vm. by die polisiestasie opgestel was.

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Dit blyk tog dat majoor Van Zyl by die eerste moontlike geleentheid na die polisiestasie gegaan het - dit is toe kaptein Van der Linde hom met n Saracen daarheen geneem het. Dat majoor Van Zyl wel die posisie as sorgwekkend beskou het blyk uit sekere stappe wat hy gedoen het. In Vereeniging self het hy die skietkommando op die been gebring en by die polisiestasie in Vereeniging gestasioneer. Dit was op sy versoek dat die militêre vliegtuie duikvlugte oor Sharpeville en elders uitgevoer het. Dit kan slegs as gevolg van sy verslag wees dat luitenant-kolonel Pienaar met versterkings na Sharpeville gekom het. Daar is later gereël dat brigadier Els self na Sharpeville sou kom. Majoor Van Zyl sou in n bespotlike posisie verkeer het indien sy meerderes by hulle aankoms sou gewaar het dat daar slegs n skare van uiterlik 3,000 na 5,000 betogers was wat boonop nog in n gemoedelike vakansiestemming was. (Hoofkonstabel Heyl en luitenant Visser se getuienis oor die boodskappe wat hulle na majoor Van Zyl gestuur het kan ook aan dieselfde toets onderwerp word). Dit volg natuurlik nie dat sy getuienis in die geheel en sonder enige voorbehoud aanvaar kan word nie. Hy het hom by geleentheid oordrywing veroorloof en in sommige opsigte was sy getuienis onbetroubaar. Sy getuienis oor die stemming van die skare word egter gestaaf deur getuies wat die polisie nie juis goedgesind was nie en kan aanvaar word.

218. Advokaat Kentridge het hom ook nog beroep op die getuienis van sekere getuies wat omstreeks 1-uur nm. tussen die skare was. Labuschagne wat saam met die polisie in Zwane-straat was het omstreeks 1-uur nm. besluit om na die polisiestasie te gaan. Hy het deur die skare geloop en aan die oostekant van die polisiestasie oor die draadomheining geklim. Die Bantoes het hom nie aangerand nie en selfs nie

eers n dreigende houding ingeneem nie nie. Baie van hulle het hom gegroet en hy het ook met hulle gesels. Dit is sy getuienis:

"Het die Bantoes u toegelaat om ongestoord deur te gaan? --- Ja. Ek het ook met baie van hulle gepraat, en baie het vir my gegroet. Ek is tussen hulle deur, en oor die draad. Toe ek binne kom, het ek weer met die Bantoes teen die draad gepraat, en elke keer as ek praat, het hulle stil gebly; maar net sodra ek omdraai, dan skree hulle weer 'Afrika! Afrika!' en sing 'Nkosi Sekelele'.".

219. Sersant Moses Nkosi het omstreeks 1-uur nm. (maar blykbaar voor luitenant-kolonel Pienaar aangekom het) van diens af gegaan. Hy het tussen die skare in Zwane-straat deur gestap op pad na sy huis, en hy het ook geen moeilikheid ondervind nie. Hy getuig dat die skare "Arika" uitgeroep het.

220. Twee fototgrawe, nl., Hoek (van n Engelstalige dagblad "Rand Daily Mail") en Berry (van "Drum", n tydskrif wat hoofsaaklik vir Bantoes bedoel is) het ook omstreeks 1-uur nm. tussen die skare beweeg. Albei van hulle het blykbaar agter die groep voertuie wat onder beheer van kaptein Brummer was na die omgewing van die polisiestasie gery. Hoek het in Zwane-straat verby die polisiestasie gery, eers van oos na wes en kort daarna weer van wes na oos. Hy getuig dat die voertuie n mate van moeilikheid ondervind het om deur die skare te dring. Hy sê die skare was "opgewonde gewees en hulle het geskree en die arms opgelig - 'gesticulated'", maar geen geweld is teenoor hom of sy motorkar gepleeg nie. (Na die skietvoorval was die motorkar wel onder die klippe gesteek - toe was hy egter n paar honderd treë weg van die polisiestasie). Sy geheel-indruk het hy as volg gestel:

"Wel, ek het die indruk gekry dat die toestand ontplofbaar is; maar wat kon gebeur het, kan ek nie sê nie. Dit was baie moeilik om te skat, op daardie stadium, wat sou gebeur."

Hy het fotos van gedeeltes van die skare geneem. Hierdie fotos werp geen besondere lig op die gebeure nie, behalwe dat dit die indruk skep dat op die tydstip toe die fotos geneem was die skare in daardie gedeeltes van die strate waarop dit betrekking het nie bankvas dwarsoor die straat gestaan het nie. Daar moet egter onthou word dat die fotos geneem was kort na die konvooi voertuie in die strate beweeg het en die polisiestasie-terrein binnegery het. Dit is te betwyfel of die skare ooit heeltemal staties gebly het.

221. Berry het ook kaptein Brummer se konvooi gevolg en sy motorkar (wat deur sy kollega Humphrey Tyler bestuur was) was in Zwane-straat aan die oostekant van die groep polisie onder bevel van kaptein Coetzee geparkeer. Van daar het hy deur die skare gestap tot by die suidwestelike hoek van die polisie-stasie-terrein. Hoewel Berry se getuienis na my beskouing 'n toonbeeld van onderskatting is, beskou ek hom nogtans as 'n redelik betroubare getuie. Sy neiging tot onderskatting wyt ek eerder aan sy geaardheid in die algemeen as aan 'n poging tot opsetlike misleiding terwyl hy in die getuiebank was. Sy getuienis was dat hy sonder veel moeite sy weg deur die skare gebaan het en dat hy hoegenaamd geen vyandiggesindheid teenoor hom bespeur het nie. Hy het egter toegegee dat daar moontlik nie dieselfde gesindheid teenoor die polisie as teenoor hom bestaan het nie. Die duimteken wat herhaaldelik in die rigting van die polisie gewys was het hy as 'n teken van protes teen die polisie gesien. Dat die skare wel luid-drugtig was blyk na my beskouing duidelik uit Berry se

getuienis en onder meer uit die volgende passaat in sy hoof-getuienis:

"Before we leave the scene, I want to ask you something about the crowd in general. Do you understand the Bantu language? --- No; I don't.

Well, then I must just ask you for your impression. You have said that this crowd shouted 'Afrika!' and 'Izwe Lethu!'. Did you gain the impression that this crowd was being abusive to the Police?

THE CHAIRMAN: Now you must distinguish, if you can, between the crowd as a whole and the conduct of the individuals? --- Yes. I think the crowd as a whole were shouting these two words at the Police pretty well continuously. It was impossible for me to see any individuals who were behaving differently.

EXAMINATION CONTINUED: Did you hear any shouts of 'Cato Manor', for instance? --- No; I did not.".

Hy sê voorts ook in sy getuienis dat hoewel die skare teen die draadomheining geleun het, hy daarvan oortuig is dat die omheining nie merkbaar oorgedruk was nie. Sy beskouing was dat indien die omheining wel merkbaar oorgedruk was dit later moes gebeur het. Hierdie getuienis is van meer as net verbygaande belang en ek verwys later weer daarna. Dit moet in gedagte gehou word dat Berry se getuienis in hierdie verband verwys na die tyd toe luitenant-kolonel Spengler en kaptein Brummer by die polisiestasie aangekom het. Tsolo en More was nog nie gearresteer nie en hulle en enkele ander Bantoes het n mate van beheer oor die skare uitgeoefen veral wat drukking teen die draadheining betref. Berry het verskeie fotos vanaf die suidekant geneem. Ek heg afdrukke van twee van hierdie fotos hierby aan. (Aanhangsels "N" en "O").

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Eersgenoemde toon n gedeelte van die skare in Zwane-straat. Aanhangsel "O" is met n langafstandlens geneem vanaf n punt naby die suidwestelike hoek en gee n blik op die gedeelte van die skare in die onmiddellike omgewing van die dubbelhek aan die westekant van die polisiestasiegronde. Berry was teenaan die draadomheining aan die suidelike kant. Die indruk wat die foto skep, nl., dat die fotograaf ook naby die hek was, moet aan die tipe lens wat gebruik was gewyt word. Thomas More het homself as een van die persone op die foto uitgeken. Dit was eers aan luitenant-kolonel Pienaar gestel dat die motorkar op Aanhangsel "O" syne was. Dit het egter duidelik geblyk dat dit nie die geval was nie, maar dat dit een van die motorkarre is wat saam met die Saracens onder bevel van kaptein Brummer gekom het. Luitenant-kolonel Pienaar het eers ongeveer 10-15 minute later aangekom. Op n vraag van advokaat Kentridge het luitenant-kolonel Pienaar erken dat die voorkoms van die skare by sy aankoms by die hek ooreenstem met wat uit Aanhangsel "O" blyk.

222. Na my beskouing het die fotos wat Berry en Hoek van die skare geneem het nie die bewyskrag wat advokaat Kentridge daaraan heg nie, veral nie waar dit oor die gemoedstoestand van die skare gaan nie. Aanhangsel "O" bewys natuurlik duidelik dat daar op die tydstip toe die foto geneem was g'n neiging tot instroming deur die hek was nie. Dit blyk ook dat die polisie wat op die foto verskyn waarskynlik op daardie oomblik nie sodanige verwag het nie. Na my beskouing bewys dit egter nie[illegible] die kamera gee n statiese beeld van n klein gedeelte van die skare - en dit sonder die meegaande klank. Die foto moet gesien word as een van n klein gedeelte van n groot skare wat (selfs volgens die fotograaf) deurentyd geskreeu het, en die duimteken by wyse

van protes teen die polisie gewys het. As daar nog uitjouery, enkele uitroepe van "Cato Manor", "Polisiehonde", e.d.m. bygevoeg word, dan het U Eksellensie na my beskouing n duideliker beeld van die skare as die wat deur advokaat Kentridge aan die hand gedoen word.

223. Die getuienis van Labuschagne, Nkosi, Hoek en Berry bewys na my beskouing egter dat die skare aan die suidelike kant in Zwane-straat omstreeks 1-uur nm. nie in so'n stemming was dat hulle sondermeer tot geweldpleging sou oorgaan nie. Hulle was egter luiddrugtig en enkele het die polisie in Zwane-straat uitgejou en uitgetart - soos uit kaptein Coetzee se getuienis blyk. Die houding teenoor die blanke polisie in Zwane-straat dui moontlik daarop dat die skare n verskil tussen hulle en blanke burgerlikes getref het. Dit is egter n feit dat die skare in Zwane-straat nog toe nog later enige werklike poging gedoen het om die polisiegronde binne te gaan, ondanks die feit dat die hek nog gesluit nog bewaak was.

224. Daar is ook verwys na die feit dat die polisiegetuienis oor die stemming van die skare nie te rym is met die versuim om enige stappe ter beveiliging van die polisie of die polisiestasie te doen voor die aankoms van luitenant-kolonel Pienaar nie. Ek glo nie dat veel gewig aan hierdie oorweging gegee kan word nie. Selfs toe kaptein Theron in bevel was, was daar te min polisie om handelend op te tree. Kaptein Theron verduidelik dat dit juis die houding van die skare was wat hom laat besluit het om niks te doen wat die posisie moontlik kon laat versleg nie. Dit was trouens die benadering van die polisie vanaf die tyd wat hoofkonstabel Heyl daar aangekom het totdat luitenant-kolonel Pienaar uiteindelik die bevel van kaptein Theron oorgeneem het.

225. As daar op al die getuienis en die waarskynlikhede gelet word dan meen ek dat die volgende bevinding oor die stemming van die skare tydens luitenant-kolonel Pienaar se aankoms geregverdig is. Die algemene indruk is dat die skare as n geheel luiddrugtig was. Wat dit betref sou ek vermoed dat daar hoogtepunte en laagtepunte was, wat dikwels in verband gestaan het met opsweping van die kant van die leiers. Hoewel daar moontlik n mate van oordrywing in die getuienis was, is ek oortuig dat daar uitjouery was, dat skeldwoorde teenoor die polisie gebruik was en dat daar by geleentheid dreigemente van geweldpleging teenoor hulle deur betogers geuiter was. Dat van die betogers bose gedagtes gekoester het is beslis moontlik, maar daar is geen aanvaarbare getuienis van enige gemeenskaplike opset om die polisie aan te val nie. Die blote feit dat luitenant-kolonel Spengler dit veilig geag het om die dubbelhek oop te maak en van die leiers na die polisiestasie te neem op n wyse wat vir die skare as arrestasie sou skyn te wees getuig daarvan dat die lede van die Veiligheidstak nie n onmiddellike aanval verwag het nie. Hoewel die skare teen die draad-omheining geleun het, glo ek dat dit tot op daardie stadium nie so ernstig was nie. Tot omstreeks 1-uur nm. was die posisie binne die omheinde terrein betreklik staties - daar het nie juis iets gebeur wat tot uitermatige opwinding aan die kant van die skare gelei het of kon lei nie. Die leiers van die skare het ook n mate van beheer uitgeoefen omdat hulle self besef het dat drukking teen die draad gevaar inhou. Ek is egter ook oortuig dat al die betogers nie oor dieselfde kam geskeer kan word nie. Na my beskouing moet onderskei word tussen die skare wat aan die suidelike en suidwestelike kant was en die aan die westelike kant in die omgewing van die dubbelhek. Vanaf omstreeks 1-uur nm. het die belangstelling

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na daardie gebied verskuif. Daar was n groter samedromming in daardie omgewing, vermoedelik omdat die eerste groot groep versterkings en veral die Saracens sopas daar die polisiegronde binnegery het. Dit is ook by die dubbelhek waar die lede van die Veiligheidstak onmiddellik na hulle aankoms opgetree het. Tsolo, More, Moses Smit en moontlik ander leiers het hulle toe ook in daardie omgewing bevind. Na my beskouing is dit waarskynlik dat n aansienlike aantal van Tsolo se vurigste ondersteuners hulle toe ook in daardie omgewing bevind het en dit sou die meerderheid van die veglustige jong manne wat van Seeiso-straat saam met Smit en Qwade gekom het ingesluit het. Ek meen dat hulle ook die luiddrugtigste sou gewees het.

226. Ek wil kortliks na die kwessie van die bewapening van die skare verwys. Ek het reeds daarna verwys dat hoofkonstabel Heyl getuig het dat hy nie wapens by die skare in Zwane-straat gesien het nie. n Oorweging van al die getuienis regverdig die besluit dat die skare nie as n gewapende skare beskou kan word nie. n Aansienlike gedeelte van die mans wat daar aanwesig was het hulle huise die oggend verlaat met die doel om na hulle werk te gaan. Hulle sou nie kieries gedra het nie. U Eksellensie is daarvan bewus dat Bantoes dikwels uit gewoonte kieries dra. Daar is getuienis dat Bantoes gedurende die nag en in Seeiso-straat kieries gedra het (dit was blykbaar veral die jonger Bantoes wat by die veldtog van intimidasie betrokke was). Dit is baie waarskynlik dat n onbepaalbare aantal betogers wel kieries gehad het. Na my beskouing was dit egter nie n belangrike aspek van die gebeure by die polisiestasie nie. Dat daar booswigte en tsotsis was wat nog gevaarliker wapens soos messe en skerp ysters gehad het is ook waarskynlik. Vir die wat klippe wou gooi sou daar

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altyd een byderhand wees (dit is letterlik sowel as figuurlik gesproke waar). Vir sover die posisie gevaar ingehou het, is die bewapening van die skare n faktor van geringe belang. Die belangrike faktore was na my beskouing, onder meer, die grootte en stemming van die skare en veral hulle nabyheid aan die polisie. Ek verwys egter later weer hierna.

227. In paragraaf 204 hierbo het ek verwys na luitenant-kolonel Pienaar se getuienis oor die indruk wat die skare op hom gemaak het. Wat sy indruk betref moet daar onthou word dat sekere omstandighede dit bepaal het. Daar was, eerstens, die wanindruk waaronder hy verkeer het, nl. dat die skare reeds vroeër die môre n aggressiewe houding geopenbaar het en dat verskeie mislukte pogings tot uiteenjaging by die polisiestasie onderneem is. Hy was ook meegedeel dat die polisiestasie deur sowat 20,000 Bantoes omsingel was. Hy het die polisiestasie vanaf Seeiso-straat genader en die polisiestasie-terrein vanaf die westekant deur die dubbelhek binnegery. Met ander woorde, hy het deur die skare gedring waar die digste samedromming was en waar, soos ek reeds hierbo aangedui het, die vurigste en veglustigste betogers vergader het. In sy getuienis stel hy dit dat die posisie aan die westekant volgens sy oordeel die meeste gevaar ingehou het.

228. Dit is onmoontlik om vas te stel presies hoe laat luitenant-kolonel Pienaar by die polisiestasie aangekom het. Ek meen dat hy waarskynlik tussen 1.10 nm. en 1.20 nm. aangekom het, d.w.s. van 20 na 30 minute voor die skietvoorval wat nagenoeg om 1.40 nm. plaasgevind het.

229. Luitenant-kolonel Pienaar getuig as volg oor die gebeure onmiddellik na sy aankoms:

"I have had 36 years of service, and I have been - I have dealt with many mobs, and I know what the psychology of a

mob is; they have no conscience, are capable of any rash act; and when I landed in the yard, there, my first concern was to muster the Police and to form them up in readiness for any possible attack that might come. As I say, I found Captain Theron there and I spoke to him. There was not much time for deliberating. He told me that the position was very ugly, that the Natives had once or twice come across the fence and he agreed that immediate steps had to be taken. I then ordered that the men had to formed up facing the fence, facing the crowd. While I was busy forming up the men - it took some time to get them in line and separated; I did not want them too close together, - a few stones fell amongst the Police.".

Ongeveer 70 blanke lede van die mag het aangetree en teenoor die westelike omheining stelling ingeneem. Die meerderheid van die manne was konstabels, hoewel daar ook sersante en moontlik ook een of twee hoofkonstabels was. Die bewapening het bestaan uit rewolwers, .303 gewere en n paar stengewere. Geen verdedigende linie is aan enige ander kant opgestel nie - daar was trouens baie min blanke polisie aan die suidelike kant. Nadat die linie opgestel was het luitenant-kolonel Pienaar besluit dat hulle te na aan die omheining was en hulle gelas om terug te staan. Selfs na hulle teruggetree het was hulle maar ongeveer 7 of 8 treë van die omheining. Volgens sy verduideliking het die posisie van die Saracens dit onprakties gemaak om die linie nog verder terug te skuif. Geen bepaalde metode is by die opstel van die linie toegepas nie. Die linie is nie in groepe onder bevel van n offisier en onder-offisiere verdeel nie. Luitenant-kolonel Pienaar het toegegee dat sodanige optrede beter sou gewees het, maar verduidelik dat die omstandighede so dringend was dat hy dit nie kon doen nie.

Afgesien van die feit dat opdrag later gegee is dat die manne nie sonder 'n bevel daartoe mag skiet nie, is geen besondere voorligting aan die manne in die linie gegee oor hoe hulle in bepaalde omstandighede moes optree nie. Die Saracens was onder bevel van kaptein Brummer en luitenant-kolonel Pienaar het die besluit in verband met die noodsaaklikheid om die masjiengewere te gebruik aan hom oorgelaat. Die bemanning van die Saracens het nie aangetree nie en het blykbaar in die omgewing van hulle voertuie gebly. Die ander polisie wat nie aangetree het nie het ook aan die westekant gestaan, hoewel sommige van hulle vermoedelik meer na die suidelike kant gestaan het. Daar was 'n vertraging met die opstel van die linie omdat sommige gemeen het dat hulle in kolomme van drie moes aantree. Terwyl luitenant-kolonel Pienaar en andere besig was om die linie op te stel het luitenant-kolonel Spengler hom genader en hom meegedeel dat hy besig was om van die leiers aan te keer. Luitenant-kolonel Pienaar sê dat hy haastiglik hierdie optrede goedgekeur het. Luitenant-kolonel Spengler het toe weer na die hek teruggekeer.

230. Luitenant-kolonel Pienaar het 'n bietjie later 'n bevel gegee dat 5 rondtes gelaai moes word. Die omstandighede wat daartoe aanleiding gegee het beskryf hy as volg:

"Did you give any additional orders? --- Yes. As I say, at a certain stage stones began falling amongst the Police - isolated stones were falling amongst the Police. I saw Col. Spengler at the gate with Sergt. Muller. They had hold of a Native, there, and both of them were flung back into the yard and some of the Natives were going after them, but they retreated. At that stage, I expected an immediate attack and I gave the order to load

with five rounds. I knew that the men would alre[illegible] have loaded, but I gave this order in the hope that it would have a sobering effect on the crowd and to indicate to the men that if it should come to that, the initial firin[illegible] limited to five rounds.".

Hy het die manne ook toe gewaarsku dat daar nie sonder n bevel geskiet mag word nie. Op hierdie tydstip was hy voor die linie omtrent 10 treë van die hek en aan die noordelike kant daarvan. Van die ander offisiere en onder-offisiere het verder langs die linie af gestaan.

231. Luitenant-kolonel Spengler verwys ook na hierdie voorval by die hek, en meld dat daar by daardie geleentheid krete van "Cato Manor!" aangehef was. In hierdie verband wil ek egter meld dat die getuienis oor die verloop van die gebeure gedurende die laaste paar minute nie altyd samehangend is nie.

232. Die algemene strekking van die polisiegetuienis is dat die toestand toe uiters gespanne was. Die lawaai was so geweldig dat bevele van offisiere slegs op n kort afstand gehoor sou kon word. Die Bantoes - veral die aan die weste-kant - het teen die draadomheining gedruk en dit oorgebuig. Enkele klippe was reeds in die rigting van die polisie - waarskynlik na luitenant-kolonel Spengler - gegooi. Dit was die posisie terwyl die 70 lede van die polisiemag in n linie gestaan het en reeds beveel was om te laai. Hierdie optrede het blykbaar geen uitwerking op die skare gehad nie. Verskeie polisiegetuies het getuig dat hulle verwag het dat die skare enige oomblik tot die aanval kon oorgaan. Gedurende daardie tydperk het luitenant-kolonel Spengler en ander lede van die Veiligheidstak by die hek opgetree, en dit by geleenth id opgemaak. Hoewel die hek soms miskien met moeite toegedruk

was, blyk dit nie dat daar toe enige neiging by daardie gedeelte van die skare was om tot die aanval oor te gaan nie, hoewel hulle na my beskouing toe reeds in n toestand van uiterste opgewondenheid verkeer het. Die optrede van luitenant-kolonel Spengler dui daarop dat hy oltans nie die oordeel was dat die skare by die hek op die punt van n aanval gestaan het nie. Na my beskouing was die breekpunt egter nader as wat hy blykbaar gedink het. Soos hieronder blyk, regverdig die getuienis na my beskouing die bevinding dat hierdie optrede van die polisie n regstreekse verband het met die handelinge van die skare wat tot die gebruik van vuurwapens gelei het.

233. Voor ek verslag doen oor die laaste oomblikke voor daar geskiet was, wil ek na die getuienis van enkele Bantoe getuies verwys wat betrekking het op die gebeure na die aankoms van luitenant-kolonel Pienaar. Die algemene strekking van die Bantoe getuies wat deel van die skare was, is dat daar geen voorbedagte plan was om geweld te pleeg nie. Hulle het nie te enige tyd kwaaie gevoelens teenoor die polisie gekoester nie. Baie van hulle het erken dat die skare lawaaierig was, maar dit gewyt aan die gemeenskaplike sang van die skare. Sommige getuies het gemeen dat die Saracens en afdelings polisie na die polisiestasie gekom het om as erewag te dien vir die persoon wat hulle sou kom toespreek. Geeneen het enige rede vir die polisie-optrede gesien nie. Die stemming van die skare het deurgaans dieselfde gebly, ondanks gebeure waarby Tsolo, More en andere by die hek betrokke was.

234. Dit was aan luitenant-kolonel Spengler gestel dat daar getuienis was dat hy iemand aangerand het. Spengler het dit ontken. Hy het egter erken dat hy met ene Dhlamini -

die derde persoon wat hy by die hek aangehou het - ge... het. (Ek meen dat dit waarskynlik is dat hy hier verwys na Peter Molefi, n Bantoe wat getuienis gegee het). Advokaat Kentridge het die volgende vrae aan die getuie Labuschagne gestel, nl.:

"Did you notice whether Col. Spengler struck this man - hit him? --- Nee.

You didn't see that? --- Ek het nie gesien nie.

Because there is certain information that we have, that one of the men, the white men at the gate, struck this man who was being pulled in and that that gave rise to excitement in the crowd? --- Nee; ek het dit nie gesien nie.".

235. Die oorwig van getuienis dui na my beskouing daarop dat die optrede teen ten minste twee persone van so'n aard was dat n gedeelte van die skare dit as n aanranding kon beskou het. Albei voorvalle het kort voor die eerste skote geknal het, plaasgevind. Die een, Peter Molefi, was n ondersteuner van die veldtog, terwyl die tweede een Moses Smit was. (Ek het reeds vantevore na sy getuienis verwys). Smit was n lid van die Pan Africanist Congress en een van die leiers van die betogers.

236. Peter Molefi het getuig dat hy by die hek aan die westekant gestaan het. Hy sê dat luitenant-kolonel Spengler na die hek gekom het. Molefi en ander Bantoes het die hek oopgemaak. Hy het onder die indruk verkeer dat luitenant-kolonel Spengler na buite wou kom om alle toe te spreek en hy het probeer om die skare in sy onmiddellike omgewing stil te maak. Luitenant-kolonel Spengler het hom voor die bors gegryp en deur die hek gestuk. Na hy n paar maal geklap is,

is hy na die polisiestasie geneem. Hy sê dat hy hom gewillig oorgegee het, maar dat die polisie nie na hom wou luister nie. Hy sê dat die skare by die hek nie vyandigsindheid geopenbaar het nie. Terwyl hy aangerand was het iemand geskreeu dat hy hom moes onderwerp. Volgens hom sou hy by die ingang na die binneplein van die polisiestasie gestaan het toe daar geskiet was. Verskeie Bantoes gee getuienis oor hierdie voorval. Meshack Mkwanazi het langs die dubbelhek gestaan toe Molefi aangehou was. Hy sê dat Molefi geskop en geslaan was. Hy is een van die weinige Bantoe getuies wat gesien het dat klippe vanuit die skare gegooi was. Hy sê dat drie kinders klippe na luitenant-kolonel Spengler gegooi het terwyl hy besig was om Molefi aan te rand. Moses Smit verwys ook na 'n aanranding op Molefi en sê dat die skare toe die "Afrika" kreet herhaaldelik uitgeroep het, hulle arms omhoog gehou het en die duimteken gewys het. Hy het egter ontken dat die stemming van die skare by die hek as gevolg van die aanranding op Molefi enigsins verander het.

237. Die beskikbare getuienis oortuig my dat die aanhouding van Peter Molefi wel die stemming van die skare in die omgewing van die hek aan die westekant geaffekteer het, veral daar dit waarskynlik is dat hulle onder die indruk verkeer het dat hy aangerand word. Baie van hulle moes teen die tyd besef het dat daar waarskynlik geen toespraak sou wees nie. Instede daarvan word die leiers en Bantoes by die hek nou met aanhouding gedreig. Die gebeure by die hek was na my beskouing bereken om die gemoedere nog meer gaande te maak en om die belangstelling op daardie gebeure toe te spits. Die onvermydelike gevolg sou wees dat daar nog 'n groter samedromming by die omgewing van die hek sou wees en dat die

Bantoes veral teenaan die omheining aan die westekant sou leun ten einde die gebeure by die hek waar te neem. 'n Gedeelte van die skare aan die suidekant in Zwane-straat sou nie bewus gewees het van wat by die hek aan die westekant gebeur het nie. 'n Gedeelte van die skare aan die westekant wat nie naby die draadomheining gestaan het nie sou ook nie die gebeure kon waarneem nie. Waar daar dus tekens van opgewondenheid onder die skare in die omgewing van die dubbelhek was, kan 'n mens maklik begryp dat daar meer na agter in die skare beweging en indringing sou wees aan die kant van diegene wat nader aan die oorsaak van die opgewondenheid wou kom. Ek meen stellig ook dat die wat aan die westekant teenaan die draad gestaan het heelwaarskynlik oor moes leun om 'n behoorlike blik op die gebeure by die hek te kry.

238. Dit is dan soos ek die posisie enkele minute voor die polisie op die skare gevuur het in die lig van al die getuienis en met inagneming van die waarskynlikhede sien. Daar was 'n groot en opgewonde skare wat hoofsaaklik aan die suidelike en westelike kante van die polisiestasie saamgedrom het. Hoewel die graad van opgewondenheid van tyd tot tyd en van een gedeelte van die skare na 'n ander gedeelte gewissel het, meen ek dat dit aanvaar kan word dat 'n hoogtepunt in die omgewing van die dubbelhek bereik is tydens die gebeure wat daar plaasgevind het na die aankoms van luitenant-kolonel Pienaar. Dit is ook in hierdie omgewing waar Thomas More kort na die aankoms van luitenant-kolonel Spengler die skare toegespreek het om hulle nogmaals te herinner aan hulle griewe in verband met die dra van bewysboeke. Volledigheidshalwe moet ek byvoeg dat hy hulle toe ook weer aangesê het om nie teen die draadomheining te druk nie, en ook om nie 'n steurnis te veroorsaak nie. Teen die tyd wat Molefi aangeh.

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was, was Tsolo en More egter nie meer daar om enige leiding te gee nie. Ek het al die getuienis en die betrokke waarskynlikhede so sorgvuldig moontlik oorweeg en tot die slotsom geraak dat dit onwaarskynlik is dat daar selfs op daardie tydstip 'n gemeenskaplike opset by die skare as 'n geheel bestaan het om die polisie aan te val. Dit is egter beslis moontlik dat baie Bantoes teen daardie tyd sodanige gedagtes gekoester het, en ek sou verwag dat dit veral die geval was by die groep in die omgewing van die hek aan die westelike kant. In hierdie verband sal U Ekskellensie in gedagte hou dat ek vroeër reeds aangedui het dat die groep veglustige jong mans wat saam met Moses Smit en Qwade van Seeiso-straat gekom het hoelwaarskynlik in daardie omgewing stelling ingeneem het.

239. Teenoor die skare aan die westelike kant, op 'n afstand van hoogstens 8 treë, het die sowat 70 polisie in 'n linie gestaan. Die vuurwapens was gelaai en die vingers was op die snellers - indien nie letterlik nie dan tog wel figuurlik gesproke. Die spanning het opgelaai. Almal, van die onervare konstabel tot die bevelvoerende offisier het die posisie van moment tot moment dopgehou. Die verwagting was dat "iets gaan gebeur". Labuschagne wat die Bantoes goed geken het, het getuig dat hy toe vir die eerste maal bang en bekommerd gevoel het. Tussen die skare en die polisie was die diamantdraadomheining.

240. 'n Voorval van klimakteriese aard het met verrassende skielikheid plaasgevind en binne sekondes 'n beslissende wending in die gebeure by die Sharpeville polisiestasie veroorsaak.

241. Luitenant-kolonel Pienaar, wat toesig gehou het van die groep polisie wat as 'n gedissiplineerde eenheid opgestel was, getuig as volg oor die gebeure by die hek na Molefi aan:

1ste ...

"And just tell us something more about what happened at the gate. How did this incident at the gate come to an end? --- At that moment, when he had the first skirmish with that Native at the gate, they appeared to come after him to get hold of this person that he had, but they failed. Then some time after that - in the meantime the crowd was leaning forward over that fence, and in places it was practically pushed over 45°. Then three things happened there practically simultaneously. I saw Col. Spengler again at the gate and I suddenly saw him stagger backwards, and the crowd bursting in through the gate. Two shots were fired from the mob, and a strong shower of stones fell amongst the Police. Almost at once, after that, two shots were heard on the left flank, from the Police, and then the whole line started shooting.

When you talk about the left flank, that would be on the Southern side - the Soutern end of the line? --- The South-Western flank. Then the whole line started firing.

Where were you at that time? --- I was still at that point.

In front of the line? --- No; I was amongst the men, probably in the line.

And you say you had not given an order to fire? --- No; I did not.

What did you do, then? --- At that stage, I was prepared to give an order to fire on the gate, where they had burst through.

Why at the gate? --- Because there, to my mind, was the immediate danger; and they were bursting through the gate.

Did you think that the danger that there was, was coming from the gate only? --- No. I was satisfied that

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an attack was actually made on the Police.

You say you were under the impression that an attack was actually made at that stage? --- Yes. As far as general orders to fire were concerned, I would probably have waited a few moments longer to see whether a sustained attack would be made.

You thought the attack was definitely at the gate? --- Yes.".

242. Luitenant-kolonel Spengler se getuienis oor hierdie voorval lui as volg:

"Was daar geen ander Bantoes wat u ook geneem het, of gepoog het om in te neem nie? --- Ja; ek is weer terug na die voorhek-toe, waar 'n sekere Bantoe met 'n rooi hemp aan die buitekant baie te kere gegaan het. Ek het hom gevra wat hy soek en hy het gesê, 'We don't want passes. Afrika!' waarop die gehoor spontaan tot uitbarsting aangespoor is. Ek het hom gevra om in te kom. Hy het na die hek-toe aangestap gekom. Toe ek die Bantoekonstabel beveel om die hek oop te maak, het hy teruggedeins. Ek het toe weer beveel dat die hek toegemaak word, en daar bly staan. Terwyl ek nog daar gestaan het, het 'n Bantoe doodluiters aangestap na die hek gekom, en voor die hek kom stilstaan. Ek het weer vir hom gevra, 'Wat wil julle hê?'.

Dit was toe 'n ander Bantoe? --- 'n Ander Bantoe, ja. Hy het gesê, 'I wish to surrender myself. I and my people don't want to carry passes'. Ek het die Bantoekonstabel beveel om die hek oop te maak, en toe die Naturel probeer om in te kom, het van agter die Naturelle vorentoe gebeur, soveel so, dat ek omgestamp was. Terwyl ek in 'n bukkende posisie was, het klippe begin reën, en nog voor ek orent kon kom, het ek skote gehoor val.

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Die Bantoes wat vorentoe gebeur het, wat was die gevolg? --- Die gevolg was dat Bantoes by die hek ingestroom het.

Hoe ver het hulle werklik deur die hek gekom? --- n Treë of twee.

Hoeveel, sou u sê, het so deurgekom? --- Seker 100 of 200; wat in was, was seker omtrent 50; maar wat die stroom toe ingebring het by die hek, was seker 100 of 200, binne n paar sekondes.

Wat was u indruk; wat was die bedoeling van daardie beuring? --- Ek het gevoel dat hulle n aanval loods.

Het dit vir jou so voorgekom, op daardie tydstip? --- Ja.

En toe, sê jy, het die klippe begin reën en die Polisie het begin skiet? --- Ja; die klippe het eers gereën, en toe het die Polisie geskiet.

En waar was jy tydens die skietery? --- Tussen die Polisie en die Bantoes.

Tussen die lyn wat nou skiet, en die Bantoes? --- Ja.

Maar het jy nie daar in gevaar verkeer van koeëls nie? --- Moontlik.

Was jy die heel tyd daar? --- Die heel tyd.

Nog voor die hek? --- Voor die hek.

En wat het geword van die klomp wat daar deurgedruk het? --- Met die skietery het hulle teruggehardloop.

Hulle was teruggedruk? --- Nee; hulle het teruggegaan.

Sê u dat dit die skietery gewees het wat hulle laat terugval het? --- Ja.

DIE VOORSITTER: Was die dubbelhek toe geheel-en-al oop gewees? --- Dit was heeltemal oop gemaak.".

243. Kaptein Theron beskryf die gebeure as volg:

"Is - het daar enigiets gebeur wat hom betref? --- Kol. Spengler?

Ja? --- Ja; dit het vir my geskyn hy is besig om iemand te ondervra by die hek. Hy is van die Veiligheidstak. Hy was besig om iemand te ondervra, voor by die hek. Hy het toe weer teruggegaan. Na n kort rukkie het hy weer na die hek teruggekeer, vergesel van n ander speurder. Ek ken hom ongelukkig nie. Toe het dit vir my geskyn hy was besig, daar, om n arrestasie te maak, of, alternatief, n persoon daar te ondervra. Terwyl hy daarmee besig was, het die klomp by die hek vir hom teruggedruk. Hulle het ingestorm. Terselfdertyd het ek twee skote verneem. Dit het vir my gegaan dit was van die skare afkomstig. Dit het vinnig gegaan, op daardie stadium. Daar het klippe en ander instrumente oor die draad gekom, wat na ons geslinger was. Ek was op daardie stadium tussen die skare en die opgestelde ry Polisiemanne gewees. Ek het gekyk en gesien een van die lede van die Mag, n blanke man, gryp hier na die linkerkant van sy lyf. Dit het vir my gelyk of n voorwerp hom getref het. Ek kon nie sien wat hom getref het nie. Toe die klippe kom - na die twee skote, en die klippe, het een van die manne in ons geledere sonder enige bevel n skoot gelos, of twee skote, en daarna het meer skote gevolg.

Van die manne wat daar in linie gestaan het? --- Van die manne wat daar in linie gestaan het.

Net voor ons verder gaan: Toe kol. Spengler die arrestasie uitvoer, was die manne alreeds in gelid? --- Hulle het reeds in gelid gestaan, ja.

En jy praat van n moontlike paar arrestasie wat hy uitgevoer het? --- Dit het vir my geskyn, het ek gesê, hy was besig om n arrestasie te maak, of alternatief iemand te ondervra, daar.

Dit het jou so voorgekom? -- Ja.

Was daar enige verandering in die houding, in die stemming van die skare, nadat hy dit gedoen het? --- Die lawaai het toegeneem, en dit het nog erger geword nadat hy daar gewees het. Maar daar was nie geweld gepleeg, wat ek gesien het nie. Maar ek sou sê, die lawaai het ietwat toegeneem, op daardie stadium, toe kol. Spengler daar gewees het, by die hek.".

244. Kaptein Van den Berg het op my versoek navraag gedoen oor getuienis wat daarop dui wie die eerste gevuur het. Dit kon egter nie vasgestel word nie. Na my beskouing kan egter bevind word dat een of meer van die manne in die linie wat in die omgewing van die dubbelhek gestaan het waarskynlik die eerste skote afgevuur het. Die getuies is dit nie almal eens oor die presiese verloop van sake nie, en dit is ook nie altyd duidelik of hulle mekaar weerspreek, en of dit bloot die geval is dat hulle mekaar aanvul nie.

245. Verskeie lede van die polisie wat gevuur het, het voor my getuig. Een van hierdie getuies is n konstabel Joubert van Springs wat saam met kaptein Theron by die polisiestasie aangekom het. Hy was met n sten-geweer bewapen en het 10 skote (op enkelvuur) geskiet. Hy het regoor die dubbelhek gestaan, en getuig as volg:

"Waarom het jy geskiet? --- Ek was aan die Westekant van die Polisiestasie, waar ek stelling ingeneem het. Die skare het op daardie oomblik n dreigende houding ingeneem. Hulle het ons gegooi met klippe. Ek myself was raakgegooi deur n klip op my linkerbors. Die skare wou by die hek inkom. Daar was lede van die Mag wat die skare teruggedruk het voor die hek toegemaak het. Toe hulle gooi met die klippe, het daar van die skare op ons afgestorm, deur die hek. Op daardie oomblik het ek begin vuur.

Het jy n bevel gehoor? --- Ek het geen bevel gehoor nie, en al sou daar n bevel gewees het, sou dit baie moeilik gewees het om die bevel te gehoor het.

Wanneer jy nou sê dat jy op n gegewe oomblik begin skiet het, meen jy daardeur dat jy die eerste man was wat geskiet het? --- Nee; ek was nie die eerste man wat geskiet het nie. Daar was skote gevuur voordat ek geskiet het.

Het jy geskiet omdat jy die skote gehoor het, of vir n ander rede? --- Ek het vir n ander rede geskiet.

Watter rede? --- Ek het geskiet omdat my lewe, sowel as die ander lede wat by my was, se lewens in gevaar was.

Toe jy die ander skote gehoor het, was jy onder die indruk dat n bevel gegee was? --- Ek was onder daardie indruk.

n Bevel wat jy nie kon hoor nie? --- n Bevel wat ek nie kon hoor nie.

Waarin het hierdie groot gevaar bestaan, dat jy gereken het dat julle lewens in gevaar is? --- Die skare was vreeslik opgesweep gewees. Hulle het n vreeslike dreigende houding ingeneem. Met ons aankoms daar was ons begroet gewees met vuil taal, hulle het kieries in die lug gewaai en daar was van hulle wat nog ander voorwerpe ook by hulle gehad het. Op daardie stadium, toe ons gevuur het, het hulle ons gegooi met klippe, kieries en ander voorwerpe.

DIE VOORSITTER: Ek is nie heeltemal seker nie. Waar het jy gestaan ten opsigte van die dubbele hek aan die westekant van die Polisiestasie? --- Ek het ongeveer in die middel van die hek gestaan.

Regoor die ingang? --- Regoor die ingang, by die hek aan die Westekant.

Jy het gepraat van Bantoes wat iewers ingestorm het? --- By die hek. Hulle wou by die hek inkom, toe is hulle teruggedruk. Daar was 'n arrestasie gedoen op daardie oomblik, toe wou die Bantoes by die hek inkom, vermoedelik om hom te bevry, of so-iets. Toe is die Bantoes teruggedruk en die hek is toegemaak. Op daardie oomblik het hulle met die klippe begin gooi, en die persone wat dit toegemaak het, het geritireer. Hulle het weer die hek oopgedruk en aangekom. Op daardie oomblik het ek begin vuur.".

246. Konstabel Stapelberg het naby die suidelike kant van die terrein in die linie gestaan en het 3 skote met 'n .303 geweer geskiet. Hy het verwys na die gebeure by die hek en gesê dat die skare toe meer opstandig geraak het. Hy beskryf die omstandighede waaronder hy geskiet het as volg:

"Het jy ook geskiet? --- Ja.

Het jy 'n bevel gehoor? --- Nee.

Hoekom het jy dan geskiet? --- Wel, daar het 'n Naturel gestaan met 'n klip in sy hand, en hy was van plan om na my te gooi, en ek het op hom gevuur.

Was dit die enigste klip wat gegooi was? --- Nee; daar was baie klippe gegooi, waarvan die een my ook teen die kop getref het.

Was dit nadat julle in gelid gestaan het? --- Ja.

Wat het toe gebeur? --- Ek het geval. Een van die konstabels wat langs my gestaan het, het my opgetel. Ek het nie my bewussyn verloor nie. Ek was by my volle bewussyn. Terwyl ek opgestaan het, het ek gesien dat een van die Naturelle 'n klip in sy regterhand gehad het. Hy het sy arm bokant sy kop gelig en was van plan om na my te gooi, waarop ek na hom gevuur het.

Het jy die eerste skoot afgetrek, of was daar ander skote, ook? --- Nee; ek het begin vuur nadat ek van die grond af opgestaan het. Toe is daar alreeds gevuur.

Hoe kon jy seker wees dat hy werklik na jou mik met die klip? --- Wel, ek was ongeveer ag treë van die Naturel af, en het heel voor gestaan, ongeveer vier treë vanaf die hek, aan die linkerkant van die hek, en ek kon sien dat hy duidelik na my mik.

DIE VOORSITTER: Het hy teenaan die draad gestaan, of terug van die draad? --- Hy was ongeveer n tree aan die ander kant van die draad.

VERHOOR HERVAT: Het daar iemand voor hom gestaan, of nie? --- Daar het niemand voor hom gestaan nie.

Het jy hom raakgeskiet? --- Hy het geval nadat ek gevuur het, maar ek kan nie sê dat ek hom getref het nie, aangesien daar van die konstabels rondom my gestaan het wat in dieselfde rigting as ek gevuur het.

Toe jy die persoon sien met die klip omhoog, was dit voordat daar gevuur was van enige kant, of was daar toe alreeds gevuur? --- Daar was toe alreeds gevuur.".

247. n Bantoe speurder, Edwin Litelu, het by die hek, wat toegang na die binneplein van die polisiestasie verleen, gestaan en was dus regoor die dubbelhek aan die westelike kant. Hy getuig as volg:

"Could you see a reason for the Police shooting? --- To my mind, I would say the Police were in danger of their lives.

What was the source of this danger? --- The people were more than the Police - much more that the Police.

But was there reason to fear the people? --- We did not know what they intended about the Police. They were

shouting there, and talking about Police - spitting at the Police, too.

What were they shouting? --- It was not easy to make out what they were saying, but I caught the word which they shouted, 'Afrika!'.

THE CHAIRMAN: What does that mean to you? --- I don't know what they meant.

EXAMINATION CONTINUED: Did you yourself think that the Police were in danger? --- Yes.

THE CHAIRMAN: All the Police, or only some of them? --- All the Police.

The white, and the non-white Police? --- The whites and non-whites.

EXAMINATION CONTINUED: What did you do? --- I stood there, stood and listened what would be the end.

Did you have any weapon? --- No.

Not even a kerrie? --- Not even a kerrie.

You thought there was that danger. Was there any violence at all used on either side, before the shooting? --- After the arrival of Col. Spengler, one of the leaders was arrested. A group of the people outside then came with force to the fence. I thought they would easily break down the fence.

Did anything happen? --- Then I heard the shooting.".

Hy het egter nie gesien dat daar klippe na die polisie gegooi was nie, hoewel hy na die voorval klippe binne die gronde gesien het wat nie voorheen daar was nie. Hy het gesê dat die skare lawaaierig was en dit as volg beskryf:

"The noise they made was different from any other noise that I know. They even waved their hands. There is a noise of talking loudly, not a noise of talking

loudly and making a big noise and waving hands in the air, and waving fists, too, in the air."

248. Nog n Bantoe speurder, Sidwell Kele (wat reeds 15 jaar in Sharpeville woonagtig was) het ook getuienis gegee. Hy verwys na die bevel om aan te tree en sê dat die skare daarna klippe na die polisie gegooi het. Die polisie het geskiet en toe hardloop hy weg. Hy sê dat hy bevrees was dat die skare die polisie (wat hom sou insluit) kon aanval en dat hy dan tussen twee vure sou beland. Aan die een kant sou die skare hom aanrand omdat hy n speurder was, en aan die ander kant kon die polisie hom skiet indien hy tussen die skare verkeer (as speurder dra hy nie n uniform nie en kon dus vir n betoger aangesien word). Hy sê ook dat hy gehoor het dat een van die betogers skreeu: "As julle ons nie almal arresteer soos wat ons hier is nie, omtrent paste nie, sal ons hierdie geboue afbreek.".

249. As daar op al die polisiegetuienis gelet word (ek het slegs enkele tipiese passate hierbo aangehaal) dan blyk die strekking daarvan te wees dat daar verskeie insidente was wat die afvuur van skote voorafgegaan en regstreeks daartoe aanleiding gegee het. Die lawaai het n hoogtepunt bereik en die skare het sterk teen die omheining geleun en dit oorgedruk op n manier wat die indruk geskep het dat hulle dit wou platdruk met die opset om die polisie te bereik. Luitenant-kolonel Spengler was besig by die hek om leiers aan te keer. Klippe en ander voorwerpe is na die polisie gegooi. Ek meen dat ongeveer 12 of wat getref en lig beseer was. Daar was die geknal van twee skote wat blykbaar deur iemand in die skare afgeskiet was. Daar was n skielike instroming van Bantoes tot n tree of twee binne die hek. Van die polisie regoor die hek het enkele skote geskiet en daarna was daar n

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algemene sarsie. Sommige polisie het geskiet omdat hulle die woord "Skiet" gehoor het en gemeen het dat dit n bevel was. Andere het geskiet omdat hulle gemeen het dat hulle in lewensgevaar verkeer omdat daar n aanval deur die skare gedoen is en het dus nie op n bevel gewag nie. Nog n groep het geskiet omdat hulle na aanleiding van die feit dat andere besig was om te skiet besluit het dat n bevel wel gegee was maar dat hulle dit vanweë die lawaai nie gehoor het nie.

250. Die algemene strekking van die getuienis van die Bantoe getuies is dat daar van die kant van die skare geen opset was om die polisie aan te val nie, dat hulle toe nog steeds in n gemoedelike stemming was, dat geen aanval deur die skare as n geheel of selfs deur n gedeelte daarvan gedoen is nie, dat geen klippe gegooi is nie (behalwe miskien deur n paar kinders), dat daar geen instroming by die hek was nie en dat daar trouens geen optrede was wat redelikerwys as vyandiggesind bestempel kon word nie. Dit was erken dat daar lawaai was, maar dit was die lawaai van sang (veral omdat almal nie dieselfde lied op dieselfde tyd gesing het nie) en die aanhef van politieke slagkrete. Dit was ontken dat die omheining ooit erg oorgedruk was. Sommige van die getuies het gehoor dat die woord "Skiet" gebruik word. Van hulle kant het hulle die polisie optrede beskou as voorbereiding vir die verskaffing van "die antwoord" waarop hulle gewag het. Ek wil dit onmiddellik stel dat baie van die getuies my oortuig het van hulle eerlikheid waar hulle gesê het dat daar geen plan was om die polisie aan te val nie. Baie van die getuies wat ontken het dat klippe gegooi was het ook nie noodwendig onwaar getuig nie. Na my beskouing sou dit vir persone wat tussen die skare was besonder moeilik gewees het om te alle tye

waar te neem wat by n ander gedeelte van die skare plàasvind.

251. Uit die getuienis blyk dit tog dat party Bantoes besef het dat daar miskien op hulle geskiet mag word. Adam Sakwane sê dat toe die vuurwapens gelaai was, was daar n bespreking in sy omgewing oor die moontlikheid dat daar miskien geskiet mag word.

252. Daar is heelwat getuienis oor wat by die hek gebeur het, en die getuies koppel dit met die eerste skote wat geskiet was. Die strekking van die getuienis is ook dat persone na die aankoms van luitenant-kolonel Pienaar by die hek aangerand was. Een van hierdie getuies, Benjamin Maroo, getuig as volg:

> "While I was standing there, I saw that the Police had formed a line. There was a European who had a white handkerchief tied round his forehead; I don't know whether it was a Policeman, or not. In front of the gate, he caught hold of a Non-European and pulled him into the gate. He took this Non-European along until they got behind the Police as they were standing in a line. He came back and caught hold of a second person. It appeared that the second person was not willing to go along with this European. He pulled him until he got him inside. While he was pulling him inside, I then heard shots being fired.
>
> Did this European who was pulling the Non-European in at the gate - did you see anything as to the manner in which he dealt with him? --- He had him by the shoulders as I indicate on the Interpreter's shoulder, and he fiercely pulled him inside.".

Die persoon wat n sakdoek op sy kop gehad het was vermoedelik n konstabel Saaiman wat in gewone drag was. Hierdie konstabel het getuienis gegee en daaruit blyk dat hy by die

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gebeure by die hek betrokke was. Hy het ontken dat hy hardhandig opgetree het. Hy is een van die getuies wat my nie beïndruk het nie. Die tweede Bantoe wat Maroo na verwys, is ongetwyfeld Moses Smit, en ek verwys later na sy getuienis.

253. Matthews Mashiya verwys ook na hierdie voorval. Sy getuienis is dat die Bantoe hardhandig behandel was. Of soos hy dit stel: "This second Non-European was taken and jerked, and it appeared from the way this European took him in that it was with bad feelings". Hy was gevra hoe die skare op hierdie voorval gereageer het, en sy antwoord was: "They had their arms raised, and I heard them saying 'Afrika! Afrika!'".

254. Simon Dhlofafa het aan die suidekant naby die suid-westelike hoek gestaan. Hy is een van die getuies wat nie die laaste gebeure by die hek gesien het nie. Indien ek sy getuienis reg verstaan het die polisie in die omgewing van die hek eerste geskiet. Die polisie wat die naaste aan hom was het hulle gewere skuins in die rigting van die grond gehou toe hy omgedraai het om weg te hardloop.

255. Joshua Motha (die busbestuurder na wie ek reeds vantevore verwys het) verwys in sy getuienis na die feit dat daar 'n digter samedromming by die hek was na luitenant-kolonel Pienaar aangekom het. Hy sê dat almal nader gestaan het omdat hulle gemeen het dat die "groot man" nou opgedaag het. 'n Sewentien-jarige Bantoe ('n seun van 'n polisie-amptenaar) het getuig dat die skare reeds begin uiteengaan het toe die Bantoe by die hek aangerand was. Hy sê "When the people saw that this man was being jerked about they tried to run away, and it could be seen, then, that there was no-one who was going to address the gathering, but they were wanting to fight with the gathering". Hy sê ook dat 'n sersant toe die bevel "skiet"

gegee het en dat die polisie toe op die skare gevuur het.

256. Moses Smit (na wie se getuienis ek ook reeds verskeie kere verwys het) is een van die getuies wat daarna verwys dat die draadomheining in 'n mate oorgedruk was. Hy was by die hek toe die polisie geskiet het. Hy verwys in sy getuienis na die geleentheid toe Molefi aangerand sou gewees het. Sy getuienis oor wat verder gebeur het lui as volg:

"When that was one, did the crowd do anything? --- Some of them were laughing but most of the people shouted this word 'Afrika!' when they saw that happening.

Do you think they shouted it at the time when this man was assaulted? --- Yes. Then the word 'Afrika!' was shouted a lot just at the time when this man was being assaulted.

After that, did anything happen to you? --- Yes; something happened to me.

What was it? --- The Policeman who caused the other Police to line up, came to me, caught hold of me, pulled me. He pushed me, struck me with the open hand, caught hold of me, pushed me towards the gate, I had had some artificial teeth in the front, here. As a result of being pushed, I fell up against the gate with my mouth and two artificial teeth broke.

Was this man who did this to you in uniform, or plain clothes? --- He was in uniform.

Do you remember anything about his uniform? Whether he had a jacket or not? --- He had a Police uniform, including the jacket, the tunic.

Do you remember anything else about how he was dressed - in trousers, or anything like that? --- The trousers of this man was the same as any other Policeman's; but what

I did notice, which was something out of the ordinary, he had some stars on his shoulder.

Was the gate open, or closed at that time? --- It was open.

Were you pushed out of the gate, or did you walk out of the gate? --- At the time when he caught hold of me and pushed me and I fell with my face against the gate, I intended going out at the gate; I had the intention to go out at the gate. I nearly fainted. I was a bit dazed.

As far as you can remember, then, did you go out of the gate? --- Yes; I did.

When the shooting started, were you outside the gate? --- I had just gone out of the gate when the shooting started.

When the shooting started, were you looking at the Police, too, or did you have your back to them? --- I had my back towards them.".

Moses Smit se beskrywing van die uniform wat die polisie-amptenaar aangehad het dui daarop dat dit n offisier moes gewees het wat hom beetgehad het. Dit is natuurlik oënskynlik teenstrydig met ander getuienis wat op hierdie voorval betrekking het.

257. Masheledi verwys ook na die voorvalle waarby Molefi en Moses Smit betrokke was. Hy sê dat Molefi aangerand was en dat Smit rondgepluk was. Hy het egter nie opgelet wat van Smit geword het nie aangesien die polisie toe begin vuur het. Hy sê ok dat hy na die gebeure gehoor het dat kinders klippe na die polisie gegooi het. John Nteso wat in Zwane-straat naby die ingang na die polisiestasiegronde gestaan het verwys ook na die geleentheid toe Molefi aangerand sou gewees het. Hy sê dat die gedeelte van die skare om hom daarteen beswaar

gemaak het en geskreeu het dat die polisie hom nie moes slaan nie. Volgens hom het hierdie voorval die skare kwaad gemaak.

258. Indien al die getuienis saamgevat word en na aanleiding van die waarskynlikhede oorweeg word meen ek dat die gebeure gedurende die laaste minute voor die vuurwapens gebruik was as volg verloop het.

259. Ek het reeds daarna verwys dat luitenant-kolonel Spengler terug na die hek gegaan het nadat hy sy kort samespreking met luitenant-kolonel Pienaar gehad het. Dit is waarskynlik dat n groot gedeelte van die skare wat in staat was om die gebeure by die hek waar te neem hulle aandag daar sou bepaal het. Andere wat nie behoorlik kon sien nie maar tog besef het dat daar iets aan die gang was sou na vore gedring het om staanplek te kry waar hulle n beter uitsig sou hê. Intussen het die skare by tye volksliedere gesing, herhaaldelik politieke slagkrete aangehef en sou van hulle waarskynlik ook beledigende opmerkings teenoor die polisie gedoen het. As gevolg van drukking van agter sou die skare teenaan die draadomheining geleun het en dit in n mate oor gedruk het. Die posisie aan die suidelike kant in die nabyheid van die suidwestelike hoek sou moontlik ernstiger gewees het as die posisie meer na die suidoostelike kant toe, aangesien die skare in die laasgenoemde omgewing nie juis bewus sou gewees het van wat by die hek gebeur nie. Uit die aard van die saak sou die skare aan die westekant meer bewus gewees het van die gebeure by die hek omdat hulle nader as die res van die skare was; maar ook daar sou slegs diegene wat teenaan of naby die draadomheining gestaan het behoorlik kon sien. Met ander woorde op hierdie tydstip sou daar na my beskouing steeds n neiging by die skare aan die westekant gewees het om saam te pak ten einde so naby moontlik aan die

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omheining te kom ten einde n beter uitsig te kry op die gebeure by die hek. Die feit dat die digste samedromming in die omgewing van die hek was sou die posisie daar vererger het. Vanaf die posisie waar die polisie gestaan het sou dit dus geblyk het dat die skare steeds in hulle rigting beur en teenaan die draadomheining saampak.

260. Dit is nie my voorneme om uitsluitsel oor n saak van aanranding te doen nie maar die getuienis oortuig my dat die voorval waarby Molefi betrokke was die misnoeë van die skare wat dit waargeneem het gewek het. Dit blyk uit die luiddrugtige protes wat aangeteken is, asook die feit dat enkele klippe na die polisie (veral na Spengler) gegooi was. Die bevel om te laai is toe deur luitenant-kolonel Pienaar gegee. Hierdie uitroepe van protes het die belangstelling van die skare in die gebeure by die hek nog meer verskerp. Die bevel dat gelaai word en die uitvoering daarvan het heelwaarskynlik ook aandag op die gebeure by die hek gevestig.

261. Hoewel Peter Molefi die doelstellings van die Pan Africanist Congress ondersteun het, was hy nie n lid van die organisasie nie, en die getuienis dui ook nie daarop dat hy as een van die leiers van die betoging beskou was nie. Nogtans het sy aanhouding, anders as in die geval van Tsolo en More, tekens van protes uitgelok. Na my beskouing dui dit daarop dat die stemming van die gedeelte van die skare wat Molefi se wedervaringe gesien het verander het. As waarskynlike redes vir hierdie verandering doen ek die volgende aan die hand. Tsolo en More het die polisie gewilliglik vergesel op n tydstip toe n groot gedeelte van die skare (en veral die naby die hek) n verband tussen die polisie-optrede en die verstrekking van n antwoord gesien het. Daar is ook getuienis dat Tsolo aan die betogers sou gesê het dat hulle nie handelend

moet optree al sou daar iets met hom gebeur nie. Teen die tyd wat Molefi aangehou was het omstandighede heelwat verander. Tsolo en More was nie meer aanwesig nie en, soos uit die getuienis van Benedict Griffiths blyk, het 'n besef tot sommige van die skare deurgedring dat daar nie 'n antwoord sou kom nie, maar dat die polisie "met die mense wou baklei". In hierdie omstandighede gebeur dit nou dat Moses Smit, 'n lid van die Pan Africanist Congress en 'n erkende leier van die betogers, deur die polisie beetgepak word. Die getuienis en die waarskynlikhede dui na my beskouing daarop dat daar wel 'n skerp reaksie hierop gevolg het. Die uitroepe van protes het toegeneem. Die skare in die onmiddellike omgewing van die hek het vir 'n kort distansie die terrein binnegedring. Luitenant-kolonel Spengler was omgestamp. Aan die westekant het die skare heelwaarskynlik na vore gedring met gevolglike swaarder druk op die omheining. Selfs die wat teenaan die omheining aan die westekant was het waarskynlik daaroor geleun om 'n beter blik op die gebeure by die hek te kry. Die getuienis dat die omheining tot soveel as 45° oorgedruk was is waarskynlik oordrewe of andersins te wyte aan 'n oordrewe indruk wat geskep was deurdat persone ver oor die omheining geleun het om te kan sien. Ek het die draad-heining tydens 'n inspeksie ter plaatse gesien. Volgens sersant Grobler was dit toe nog in dieselfde toestand as onmiddellik na die gebeure. Hoewel dit duidelik was dat daar sterk drukking teen die omheining moes gewees het, het dit nogtans na my skatting nie naby 'n hoek van 45° oorgehel nie. Ek het ook nie uit die oog verloor dat 'n omheining van daardie tipe 'n mate van rekbaarheid het en dat dit as gevolg sou hê dat die graad van afwyking van die normale posisie sou verminder indien die drukking verminder word nie. Ek heg hierby aan 'n afdruk van 'n foto (Aanhangsel "P") wat

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U Eksellensie n indruk gee van die toestand van die omheining tussen die dubbelhek en die ankerpaal op die noordwestelike hoek. My herinnering is dat hierdie gedeelte die ergste oorgedruk was. Van die skare (en ek twyfel of dit net kinders was) het klippe na die polisie gegooi en sommige van hulle getref. Ek meen dat die klippe slegs vanuit die skare aan die westelike kant gekom het. Een of ander persoon tussen die skare aan die westekant het twee skote met n vuurwapen afgeskiet - of altans n ontploffing wat na die knal van n vuurwapen geklink het veroorsaak. Die getuienis regverdig nie n bevinding dat die skote op die polisie gemik was nie.

262. Al hierdie gebeure het binne n paar treë van die polisie-linie plaasgevind. Luitenant-kolonel Pienaar het geen bevel om te skiet gegee nie. Die getuienis van n groot aantal getuies verwys daarna dat iemand die woord "skiet" gebruik het en dat dit min of meer met die eerste skote wat deur die polisie afgeskiet was saamgeval het. Ek kon nie vasstel of dit n ongemagtigde bevel of miskien bloot n onwillekeurige uitroep was nie. Hoe dit ookal sy, een of meer van die manne in die linie regoor die dubbelhek het gevuur. Binne n sekonde of twee het die meerderheid van die manne wat in die linie gestaan het ook begin skiet. Dit was toe omstreeks 1.40 nm.

263. Daar was n geskil oor die vraag of slegs die polisie wat in die linie gestaan het geskiet het en of daar ook deur andere geskiet was. Dit was veral beweer dat persone op die Saracens wat naby die noordelike omheining was in n noordelike en noordoostelike rigting op die skare wat toe besig was om te vlug geskiet het (onder meer met n sten-geweer). Die strekking van die polisie-getuienis was aanvanklik dat

niemand vanaf die Saracens geskiet het nie, en ook dat daar geen werklike gevaar aan die noordelike kant bestaan het nie, behalwe miskien insoverre as wat daar regverdiging sou wees om die skare as n eenheid te beskou en te behandel. Die fotograaf Berry wat saam met sy kollega Tyler in n motorkar aan die noordoostelike kant van die polisiestasie was toe die eerste skote afgevuur was het n reeks fotos geneem wat eerstens bewys het dat daar wel persone op die Saracens gestaan het toe die skare aan die noordelike kant besig was om te vlug, en die indruk geskep het dat hulle besig was om op die skare te vuur. Kaptein Van den Bergh het die aangeleentheid ondersoek en ek het getuienis daaroor aangehoor. Ek heg hierby aan n afdruk van een van die reeks fotos. (Aanhangsel "Q"). Berry self het getuig dat terwyl hy besig was om die fotos te neem hy daarvan bewus geword het dat koeëls in sy omgewing verby hom fluit. Hy het toe laag gehurk en voortgegaan om fotos te neem. Interne getuienis in die fotos dui daarop dat die kamera naby grondoppervlakte gehou was toe die besondere fotos geneem was. Konstabel Theron het getuienis gegee en erken dat hy op n Saracen gestaan het en twee skote met n .38 rewolwer geskiet het. Hy het sy optrede as volg geregverdig: "Dit het my voorgekom of die mense, die Bantoes weer wou omdraai, en toe het ek twee skote in die lug op geskiet om hulle skrik te maak". Onder kruisverhoor het hy dit so gestel: "Dit was so'n verwarring, en ek het ook maar net geskiet omdat skiet skiet is".

264. Konstabel Sneigans, wat met n Sten-geweer gewapen was, het erken dat hy op n Saracen gestaan het terwyl daar op die skare gevuur was. Hy het egter ontken dat hy gevuur het. In sy geval blyk dit dat dit in die eerste opgawes wat verstrek was in verband met ammunisie wat verbruik was gestel word dat hy wel geskiet het. Sneigans se verduideliking was dat toe

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die opgawes opgestel was hy nie by die polisiestasie was nie. n Ander konstabel sou toe verkeerdelik die inligting verstrek het. Hy het erken dat die fotos daarop dui dat hy sy Stengeweer in sy hande gehad het en dat hy dit so kon gehou het dat dit n indruk skep dat hy daarmee skiet. Konstabel Sneigans was na my beskouing n uiters onbevredigende getuie, en ek kan my nie op sy getuienis verlaat nie. Die oorwig van waarskynlikhede dui daarop dat daar wel in n noordelike en noordoostelike rigting gevuur was, alhoewel ek nie in staat is om vas te stel hoeveel skote afgeskiet was nie. Dit is ook waarskynlik dat van hierdie skote afgevuur was deur persone wat op die Saracens gestaan het. Hoewel daar een persoon aan die noordoostelike kant dood aangetref was en moontlik n aantal aan die noordelike kant maar meer na die weste toe was, is dit onmoontlik om met enige mate van sekerheid te bepaal of hulle geskiet was waar hulle dood aangetref was al dan nie.

265. Kaptein Coetzee wat in Zwane-straat was het ook die posisie dopgehou. Hy kon egter nie sien wat aan die westekant by die dubbelhek plaasvind nie. Dit is sy beskrywing van wat hy waargeneem het toe die polisie begin skiet het:

> "Net voor die skietery plaasgevind het, het ek n harde geskree daar gehoor, en die massa het om beweeg, om die hoek, uit my gesig uit, daar, min of meer na die groot hek se kant-toe. Ek het later eers uitgevind dat daar n groot hek was. Toe die geskree opgaan, het ek n dowwe slag gehoor. Dit het vir my gegaan na n klein kaliber rewolwer wat afgegaan het. Daarna het ek n harder slag gehoor, wat vir my geklink het na òf n Polisie-rewolwer of n stengeweer wat op enkelvuur is, en daarna het daar n sarsie skote losgebars.".

Hoewel Bantoes hom en die polisie onder sy bevel ook uitgejou en uitgetart het, het hulle nie aangeval nie. Sy beskouing was egter dat die posisie uiters gevaarlik was en dat enige onbesonne daad die skare tot aanval kon laat oorgaan het. Hy beskryf dit so:

"In other words, your feeling was, although they were an aggressive crowd, if they were not provoked they would not attack of their own accord? --- If their self-control did not snap; because they were hysterical, at times. Their self-control could have snapped, and then there would have been trouble, too.

What do you mean, their self-control could have snapped? --- Well, every human being has his self-control. If you get angry, you can control yourself to a certain stage and after that many people can't control themselves.

And you think they were trying to control themselves? --- Well, at times, yes.

Well, I think it is obvious from the facts - we know that if this crowd of 10,000 to 12,000 had wanted to attack the Police Station when there were only twelve men in it, nothing could have stopped them? --- Well, nothing would have stopped them, even if there were 200 men.

Quite. You don't think that 150 men would have stopped them? --- No; they had no chance whatsoever. Those people would have overrun them.

How were they stopped? --- I don't know.

They were apparently stopped by the killing of 67 and the wounding of 180, we are told by about seventy men? --- That is possible.

Of course, it could be done, but it might be a massacre (?) ? --- Yes. That is why I, at the stages when it was plain to me that they wanted to attack us, when I told them

to stop, I could have ordered them then, under the Riotous Assemblies Act, to disperse and then disperse them. But I could not disperse them with those men, without firing, and to use firearms in that crowd, would have been horrible!

Why would it have been horrible? --- Because from where I stood, they stood like fish in a tin, right up for about 75/80 yards. I don't know how far a bullet would travel before it stops.

So you did not shoot? --- I did not. I waited for them to attack me.

They did not attack you? --- Thank God they didn't!".

Hy was gevra of enige van sy manne geskiet het. Hy getuig daaroor as volg:

"Did any of your men fire? --- No.

Are you sure of that? --- I am sure. I should have seen it. I was three paces behind my line of men who had firearms. But the moment the first shot, when that revolver or sten gun shot went off, I screamed to my men, because there was a terrific noise, to stand fast; 'Don't shoot. We don't know what happened there', and my men stood fast.

And they did not shoot? --- No.

Why did you scream, 'Stand fast! Don't shoot!'? --- Those men were under terrific tension the whole day, and the shooting on the other side could have caused one of them to crack.

I follow that. In other words, the position was such that one shot fired by one man could have sent off the line? --- Could possibly have done it.

That was what you were guarding against? --- Yes.

That was the danger? --- Yes.

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I take it it was an obvious thing, that any officer would guard against it? --- Yes.

I take it even before that you had been impressing it on your men that they must not fire without an order from you? --- Yes. I moved up and down my line of men and as soon as I saw that tension was building up in a man, I spoke to him. I even touched him on the shoulder and I said to him, 'Calm down'.

But apart from that, you made it quite clear that if an order to shoot were given, it would come from you? --- Oh, yes, I did.".

266. Dit blyk tog dat twee konstabels wat onder sy bevel was geskiet het. Ek glo nie dat kaptein Coetzee die Kommissie opsetlik mislei het nie. Dit is beslis moontlik dat hy nie daarvan bewus geword het nie. Konstabel Els het getuig dat hy op die dak van n vragmotor gestaan het. Toe die vlugtende skare in Zwane-straat in sy rigting gehardloop het, het hy gedink dat hulle n aanval doen, en dat sy lewe in gevaar was. Hy het 2 skote met sy .303 geweer voor hom in die sypaadjie geskiet. (Els was 18 jaar oud en het so pas die Polisie Kollege verlaat). Konstabel Olivier het op die eiland wat Zwane-straat in twee bane verdeel gestaan en het 4 skote met sy .303 geweer geskiet. Hy sê dat hy in die grond voor hom geskiet het. Sy getuienis dat klippe na die polisie gegooi was kan nie aanvaar word nie. Geen ander getuie verwys daarna nie. Hy sê dat die Bantoes op hulle afgestorm het en dat hy gemeen het dat die skote hulle van rigting sou laat verander het. n Jong Bantoe, wat volgens Olivier n klip in sy hand gehad het, was op die eiland aangetref. Hierdie Bantoe het op n punt gelê wat omstreeks 40 na 50 treë vanaf die polisie was. Daar is geen getuienis wat n bevinding regverdig dat hy juis daar en nie moontlik elders geskiet was nie.

267. Ek keer nou terug na die gebeure aan die westelike kant van die polisiestasie. Die algemene strekking van die polisiegetuienis is dat die skare nie as 'n geheel op dieselfde manier gereageer het nie. Sommige, veral die wat die naaste aan die omheining was, het feitlik oombliklik gewyk. Die wat agter was het vir 'n kort tydperk ook nog na vore gedring, blykbaar omdat hulle nie besef het dat daar geskiet word nie. Binne 'n kort tydperk het almal, behalwe 'n aantal wat dit veiliger geag het om plat te val en te bly lê, op die vlug geslaan. Na die vuur gestaak was het die Bantoes wat plat-geval het maar nie beseer was nie opgespring en weggehardloop. Daar was nie op hulle gevuur nie. Die groep wat by die hek ingedring het, het ook feitlik onmiddellik teruggeval.

268. Ongeveer 73 van die 150 blanke polisie het meer as 700 skote gevuur. Ek meen dat 11 polisie met Sten-gewere verantwoordelik was vir nagenoeg die helfte van die skote. Heelparty het elkeen 10 skote met die .303 geweer geskiet (1 het 12 skote geskiet, dit wil sê hy het 'n magasyn van 10 leeggeskiet en moes toe weer gelaai het.) 'n Aantal persone het elkeen 12 skote met die .38 rewolwer geskiet. Met ander woorde, na hulle 6 skote geskiet het, moes hulle die lee doppies verwyder en nog 6 patrone laai. Die polisiegetuienis is dat skiet gestaak was sodra dit duidelik was dat die skare op die vlug geslaan het. Verskeie skattings oor die tyd wat verloop het vandat die eerste skote geskiet is totdat skiet gestaak het verskyn in die polisiegetuienis. Ek meen dit strek van 'n skatting van uiterlik 10 sekondes tot een van uiterlik 30 sekondes. Die oorgrote meerderheid van die dooies en die verwondes was blykbaar in die straat aan die westekant van die polisiestasie. Die getuienis is nie baie duidelik nie, maar dit blyk dat daar baie dooies en beseerdes in die

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omgewing van die suidwestelike kant van die polisiestasie was, dit wil sê, naby die kruising van Zwane-straat en die straat aan die westekant van die polisiestasie. In n oop terrein aan die noordwestelike kant van die polisiestasie was daar ook dooies en verwondes. Enkeles was ook nog verder weg van die polisiestasie. Geen enkele betoger is op die terrein van die polisiestasie geskiet nie. Hoewel die getuienis verwarrend is, is dit my indruk dat daar, behalwe in die geval van een vrou wat in die omgewing van die hek naby die omheining dood aangetref was, geen of slegs enkele dooies en verwondes in die onmiddellike omgewing van die omheining was. Die meerderheid van die ongevalle was in die straat self en op die sypaadjie aan die westelike kant daarvan. Dit blyk ook moontlik dat daar minder ongevalle direk voor die dubbelhek was as in die omgewing van die suidwestelike en noordwestelike hoeke van die polisiestasiegronde.

269. Die mediese getuienis dui daarop dat uiterlik 30% van die ongevalle getref was op n tydstip toe hulle met hulle voorkant in die rigting van die vlug van die koeël gestaan of beweeg het. Die getuienis dui ook daarop dat n groot aantal persone onderkant die middellyf geskiet was.

270. Die algemene strekking van die getuienis van betogers is dat hulle geen rede gehad het om te vermoed dat daar op die skare gevuur sou word nie. Ek het reeds na getuienis verwys wat daarop dui dat daar wel betogers was wat die moontlikheid daarvan bespreek het toe die polisie hulle vuurwapens gelaai het. (Dit was bv., die getuienis van Adam Sakwane en Peter Lenyatso). Daar is ook getuienis dat daar eers enkele skote gevuur was - Meshoek Mkwanazi sê dat daar eers drie skote by die hek geskiet is en dat almal daarna gevuur het. Hy sê dat die skare na die eerste skote begin vlug het en dat hy ook toe

weggehardloop het. Abraham Titane wat in Zwane-straat naby die suidwestelike hoek gestaan het sê dat van die betogers in sy onmiddellike omgewing agter hom nie dadelik besef het dat daar op die skare gevuur word nie. Sy getuienis is:

"Well, when the shooting started and the first sounds of shots were heard, did nobody say anything about whether or not shooting was taking place? --- When the shooting started, I conveyed that the shooting had started. Someone had remarked, 'No. they are only playing'. I then said, 'No, no playing about it', because I saw that people were being shot dead.".

Titane se verduideliking is dat daardie persone nie kon sien wat aangaan nie. Elias Lidia (na wie ek reeds vantevore verwys het) het ook in Zwane-straat teenaan die omheining en min of meer regoor die westelike boulyn van die polisiestasie gestaan. Sy getuienis dui aan hoe hy op die eerste skote gereageer het:

"If we now come to the shooting, do you remember how the shooting started; did you see how it started? --- Well, I should say I heard the shots, and I was looking at the Police.

Do you know what gave rise to the shooting; did you see any incident that you could tell his Lordship about, that gave rise to it? --- No.

And you heard the shots. Now, I would like you to give me some particulars about the shooting. The shooting you heard, did that come from the Police on the Western side? --- Yes.

And how did the shooting sound to you - continuous, isolated shots? --- Well, they were in a volley, with two gaps between them.

That is a volley, a gap, another volley, a gap and another volley? --- The last volley was not exactly a volley; it was shots - as if they were aiming.

When the shooting started, what did you do? --- The first shooting, when it occurred, I remained stunned at my place. I was then opposite the building corner.".

My sê ook dat die eerste sarsie kort was. Dit blyk ook dat hy niks van die gebeure by die hek onmiddellik voor die eerste skote gesien het nie.

271. Ek het hierbo na die getuienis van slegs enkele getuies verwys. Na my beskouing spreek dit vanself dat 'n menigte van die betogers, en veral die wat nie 'n behoorlike uitsig op die gebeure gehad het nie, ook aanvanklik in verwarring sou verkeer het, toe daar op die skare gevuur was.

272. Indien daar nou op al die getuienis en die waarskynlikhede gelet word moet enige stelling dat die skare as't ware 'n statiese groep was toe die eerste skote geknal het as onrealisties en vals verwerp word. Die gebeure by die hek het die gemoedere van die wat dit aanskou het laat oplaai. Daar was uitroepe van protes wat bo die algemene lawaai uitgestyg het. (In hierdie verband is dit interessant om te verwys na die verslag wat Humphrey Tyler - Berry se kollega - opgestel het oor die gebeure. Hierdie verslag verskyn, onder andere, in die tydskrif "Contact" van 2 April 1960. Hy verwys na die skoot wat blykbaar deur een van die betogers gevuur was en vervolg dan:

"'That's a shot', said Berry. I was still wondering if it was when there were sudden shrill cries of 'Izwe Lethu' - women's voices it sounded - from near the police, and I could see a small section of the crowd swirl around the Saracens and hands went up in the Africanist salute. Then the shooting started.".

'n Groep het by die hek ingedring. Daar was die beweging van Bantoes van die suidelike kant om na die westelike kant, en aan die westelike kant het die skare na vore gebeur in die rigting van die omheining. Dit was 'n bewegende massa en nie 'n statiese groep nie. Die wat teenaan die draadomheining was, was besig om daaroor te leun. Klippe was gegooi. Skote het geknal. Dit was deur die polisie aanskou en een of meer van hulle in die omgewing van die hek het geskiet. Daarna het 'n sarsie gevolg wat, met moontlike onderbrekings geduur het totdat die skare uiteen was.

273. Na my beskouing bewys die getuienis dat die indringers by die hek feitlik onmiddellik teruggekeer het. Daar was vermoedelik 'n gemaal en party het mekaar omgestamp en vertrap. Die feit dat van hulle nie binne die omgewing van die hek geskiet was nie, moet na my beskouing gewyt word aan die moontlikheid dat die polisie aanvanklik nie direk op hulle geskiet het nie. Daar moet onthou word dat luitenant-kolonel Spengler en moontlik nog ander lede van die polisiemag tussen die skare by die hek en die polisie-linie was. Konstabel Joubert, wat regoor die hek was het gesê dat hy laag gevuur het - sy eerste skote in die grond in. Die getuienis en die waarskynlikhede dui na my beskouing ook op die onwaarskynlikheid dat die skare as 'n geheel onmiddellik na die eerste skote sou vasgesteek het en op die vlug geslaan het. Hulle sou nie onmiddellik besef het wat presies aan die gang was nie. Die voorwaartse beweging aan die westekant sou waarskynlik voortgeduur het omdat so baie van die skare nie in staat was om die gebeure by die hek waar te neem nie. Ek doen hierdie bevinding veral met inagneming van die waarskynlikhede. Een van Berry se fotos, asook sy getuienis daaroor, verleen steun aan hierdie bevinding dat die skare nie as 'n geheel na die eerste skote omgedraai en gevlug het nie. Na die eerste skote

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van die polisie geknal het, het Berry uit die motorkar geklim en met sy langafstandkamera drie fotos van die skare aan die noordelike kant in die omgewing van die noordwestelike hoek van die polisiestasie geneem. Ek heg hierby aan n afdruk van een van die fotos wat volgens hom ten minste 5 sekondes na die eerste skote geskiet was geneem was. Dit was as bewysstuk "E" ingedien (Aanhangsel "R"). Ondanks die feit dat daar toe reeds geskiet was, kan dit gesien word dat hierdie gedeelte van die skare nog weinig bewys lewer van vrees of n neiging om te vlug. Na my beskouing sou ander gedeeltes van die skare wat in dieselfde posisie verkeer het waarskynlik ook so gereageer het.

274. Toe die hele linie begin vuur sou die posisie feitlik onmiddellik verander het. Die wat naaste aan die omheining was sou eerste besef het dat die polisie besig was om in die omgewing van die hek te vuur en hulle sou waarskynlik die eerste gewees het wat sou wou padgee. Dit is beslis moontlik dat van hulle reeds begin omdraai het na die eerste skote by die hek geskiet was. Toe die res van die linie begin skiet het sou die beweging snel toegeneem het. Maar na agter was daar na my beskouing nog n menigte wat na vore gedring het vir enkele sekondes. Dat dit tot n chaotiese toestand gelei het is seker. Dit was n malende massa mans, vrouens en kinders wat na die kant en daardie kant gehardloop, gestamp en gestoei het, wat mekaar onderstebo geloop het en uit eie beweging plat geval het om die koeëls te ontwyk. Dit is hierdie toneel wat Labuschagne ook aanskou het en hom laat dink het aan n koringland wat deur n rukwind getref word. Dit was toe duidelik dat hulle op vlug was. Die skare aan die westekant kon nie in n westelike rigting terugval nie - die omheining van die kliniekgronde het hulle gekeer. Hulle moes dus of in n suidelike of noordelike rigting hardloop.

Die wat aan die noordelike kant en a[redacted] die [redacted]delike kant in Zwane-straat gestaan het, het meer beweegruimte gehad en kon gemakliker en op 'n minder wanordelike manier vlug.

275. Ek het tot hiertoe verslag gedoen oor die gebeure by die polisiestasie onmiddellik voor en na die polisie gevuur het na aanleiding van sekere na my mening deurslaggewende waarskynlikhede asook die getuienis van persone wat daarby betrokke was. Die volgende geskilpunt waarna ek wil verwys het betrekking op die vraag of die skare of 'n gedeelte daarvan die polisie aangeval het of op die punt gestaan het om dit te doen toe die polisie begin vuur het. Ek moet beklemtoon dat ek dit by nabetragting doen in die lig van al die getuienis en na 'n geleentheid om die getuies wat daaroor getuig het waar te neem. Ek het ook die voorreg gehad om na knap pleidooie wat etlike dae geduur het te luister. Met ander woorde dit is my opset om, indien moontlik, na die werklikheid deur te dring. Na my beskouing het hierdie feit slegs 'n onregstreekse verband met die verdere vraag, nl., of, ongeag die werklikheid, 'n persoon wat te midde van die gebeure gestaan het en dus oombliklik moes besluit het redelikerwys kon gedink het dat die skare of 'n gedeelte daarvan aangeval het of op die punt gestaan het om 'n aanval te begin.

276. Ek het reeds daarna verwys dat dit my beskouing is dat die getuienis nie 'n bevinding regverdig dat daar ooit 'n gemeenskaplike voorbedagte opset was wat die skare as 'n geheel of selfs 'n aansienlike gedeelte daarvan verbind het om die polisie op 'n gegewe tyd of in bepaalde omstandighede aan te val nie. Met ander woorde, die skare het nie met so'n opset by die polisiestasie vergader nie. Dit is my uitgangspunt en indien ek in hierdie verband mistas vernietig dit

grotendeels my verdere bevindings wat daarop gebou is. Advokaat Kentridge se betoog het feitlik hierop neergekom dat die afwesigheid van so'n opset die moontlikheid dat daar tot die aanval oorgegaan is, uitskakel. Ek glo nie dat die betoog met reg so ver gevoer kan word nie. Ek meen dat die ondervinding leer dat 'n skare se optrede van oomblik tot oomblik kan verander en dat die omstandighede van die moment daardie optrede bepaal. Wat egter toegegee moet word is dat waar daar nie so'n voorbedagte opset bestaan nie dit noodwendig volg dat 'n bepaalde gemeenskaplike opset slegs kan ontstaan indien daar 'n sameloop van omstandighede is wat bereken is om die skare tot besondere gemeenskaplike optrede aan te spoor. Hoe maklik 'n skare wat feitlik geen saamhorigheidsgevoel op 'n bepaalde oomblik het nie tog binne 'n kort tyd kan verander na 'n groep met 'n gemeenskaplike opset om geweld te pleeg blyk uit die verslag van die Kommissie wat ondersoek ingestel het na die onluste in Durban gedurende Januarie 1949 waarby Bantoes en Indiërs betrokke was. By daardie geleentheid was 142 persone gedood en 1,087 beseer. Wat die onmiddellike oorsaak van die onluste betref stel die verslag (U.G.36-49) dit as volg:

> "The spark which caused this tragic explosion was almost ludicrous in its insignificance. If one sifts the deliciously perjured evidence the probable facts appear to be these. A Native boy, 14 years of age, had words with an Indian shop assistant, 16 years of age, and slapped the latter's face. The Indian youth lodged a complaint with his employer, also an Indian, who came out of the Indian Market into Victoria Street and assaulted the Native boy. In the tussle the Native's head accidentally crashed through the glass of a shop window and in withdrawing it the boy received cuts behind the ears

which caused the blood to flow. Unfortunately this happened at a time when, as we have described, a mass of Natives and Indians had congregated in quest of conveyance to their homes. The Natives saw an adult Indian assaulting a Native child and they saw blood. That was enough. They went berserk and attacked every Indian within sight.".

277. Hoewel die skare by die polisiestasie deurgaans in n toestand van opgewondenheid was en derhalwe vatbaar sou gewees het vir leiding tot geweldpleging, meen ek dat die ander omstandighede bereken was om hulle van geweldpleging te weerhou. Die besadigde optrede van hoofkonstabel Heyl, luitenant Visser, kaptein Theron en kaptein Coetzee het na my beskouing aansienlik daartoe bygedra om die soort van voorval wat tot n uitbarsting kan lei te vermy. Die gerug wat die rondte gedoen het dat n antwoord om 2-uur nm. verstrek sou word sou na my beskouing ook dieselfde effek gehad het. Die leiers van die skare het ook op versoek van die polisie en soms uit eie beweging stappe gedoen om die skare te beheer, alhoewel hulle terselfdertyd ook deur hulle optrede verseker het dat die belangstelling en entoesiasme van die skare nie kwyn nie. Vir die redes wat ek reeds opgenoem het sou die aanhouding van Tsolo en More ook nie in die omstandighede n krisis veroorsaak het nie. Na hulle verwyder was kon hulle egter ook nie meer hulle persoonlike invloed laat geld nie. Die verdere gebeure by die hek was na my beskouing egter bereken om omstandighede waaronder geweldpleging kon plaasvind teweeg te bring. Dit blyk dat van die persone by die hek onmiddellik voor die polisie geskiet het reeds besluit het om handelend op te tree, in die sin altans dat hulle opnuut weer arrestasie aangevra het. Die getuienis bewys ook dat die

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stemming van die skare, maar veral van die persone in die omgewing van die hek, aansienlik verander het kort voor die polisie die eerste skote daar geskiet het. Wat my veral tref is dat hierdie skerp verandering juis in die omgewing van die hek aan die westekant ingetree het. Daar was die verheffing van stemme, die gooi van klippe, die indringing by die hek en die geknal van skote vanuit die skare.

27c. Daar is geen getuienis dat die skare aan die suidelike kant in Zwane-straat op daardie tydstip aanvallend opgetree het nie. Hulle was luiddrugtig en het heelwaarskynlik teen die omheining saamgepak. Die meerderheid van hulle sou skaars n behoorlike geleentheid gehad het om die gebeure by die hek waar te neem. Die polisie-optrede het so snel op die laaste gebeure by die hek gevolg dat daar in elk geval nie genoeg geleentheid was vir hierdie gedeelte van die skare om daarop te reageer nie. Die blote feit dat kaptein Coetzee nie op hulle geskiet het nie bewys na my beskouing dat hy ook geen optrede van hulle kant gesien het wat vir hom altans na n aanval gelyk het nie. En dit is van belang om te onthou dat daar geen draadheining tussen hom en die betogers was nie en dat die betogers aan die suidelike kant geen gewapende linie teenoor hulle gehad het nie. Die gevaar wat kaptein Coetzee ingesien het (en dit was n wesentlike gevaar) was dat die drukking teen die suidelike en westelike omheinings die hoekpaal kon omtrek en dat die skare dan noodwendig tussen die polisie sou indring. Dit blyk dat n posisie van uiterste gevaar kan ontstaan waar n gewapende polisie-eenheid hulle tussen n opgewonde skare bevind, selfs al sou die skare geheel-en-al nie gewapen wees nie. Die draadomheining het egter staande gebly. Nog n waarskynlikheid wat op die vraag betrekking het is die kennis wat die skare gehad het dat daar Saracens was, dat die polisie gewapen was, en trouens (in die

polisie aangetree het) dat hulle in gereedheid was om n aanval af te weer. Na my beskouing is dit onwaarskynlik dat die skare aan die suidekant of enige aansienlike gedeelte daarvan die polisie aangeval het of selfs op die punt gestaan het om dit te doen toe die eerste skote van die polisie geknal het. Dat hulle in n opgewonde toestand verkeer het wat met die nodige aansporing tot n uitbarsting kon gelei het is na my beskouing egter heel duidelik. Ek meen dat wat ek hierbo gestel het ook van toepassing is op die skare wat teenaan die noordelike draadomheining gestaan het.

279. Na my beskouing regverdig die getuienis die benadering wat ek hierbo aangedui het, nl., dat die skare nie in alle opsigte en vir alle doeleindes as n eenheid beskou kan word nie. Alhoewel luitenant-kolonel Pienaar nie oor al die inligting beskik het wat my in staat stel om so'n benadering te regverdig nie, blyk dit dat hy ook die posisie so ingesien het. Afgesien van sy getuienis, bewys sy optrede op daardie dag dat hy gevaar in die houding van die skare aan die westekant gesien het. Ek het vroeër in my verslag na die omstandighede verwys wat waarskynlik daartoe gelei het dat n ander stemming aan die westekant bestaan het, en veral by die omgewing van die hek n hoogtepunt bereik het kort voor die polisie gevuur het. Indien my bevindings wat ek reeds hierbo na verwys het korrek is dan blyk dit daar al die uiterlike tekens van n aanval deur die skare aan die westelike kant of altans deur n aansienlike gedeelte daarvan was op die tydstip toe die eerste skote geknal het. Die polisiegetuies wat voor my getuig het, het dit so ingesien. Luitenant-kolonel Pienaar se besluit was dat daar n aanval by die hek was, en dat hy op daardie oomblik bereid was om n bevel te gee dat n paar manne op die indringers by die hek moes vuur. Hy sê dat hy nog

enkele sekondes sou gewag het om homself tevrede te stel dat die aanval algemeen was voordat hy die hele linie opdrag sou gegee het dat hulle ook moes vuur. Luitenant-kolonel Spengler se opinie dat daar 'n aanval was moet ook vermoedelik tot die indringing by die hek beperk word aangesien hy toe sy aandag slegs daarop toegespits gehad het. Van die ander polisie-getuies het verwys na die voorwaartse beweging na en drukking teen die omheining en die gevaar in daardie optrede gesien. Dit is egter 'n feit dat die linie nie as 'n gedisiplineerde eenheid coreenkomstig die bevele van die bevelvoerende offisier opgetree het nie, en dat die bevelvoerende offisier inderdaad nie die bevel om te vuur gegee het nie. Dit val egter nie binne die bestek van hierdie verslag om die persoonlike aan-spreeklikheid van die persone wat gevuur het te bespreek nie, veral waar daar slegs 'n minderheid geleentheid gehad het om voor my te getuig. (Om dieselfde rede bespreek ek ook nie die persoonlike aanspreeklikheid van enige ander persoon of groep wat by die gebeure betrokke was nie.)

280. Daar is sekere waarskynlikhede wat na my mening soveel gewig dra dat dit na my beskouing nie geregverdig is om 'n bevinding te doen dat daar 'n algemene aanval deur die skare aan die westelike kant as 'n geheel geloods is nie. Die omheining was nog staande en luitenant-kolonel Pienaar het die optrede nog nie as 'n algemene aanval beskou nie. Hierdie omstandighede is natuurlik op sigself nie afdoende bewys nie. Die bevinding dat daar wel 'n aanval was stuit nog teen ander waarskynlikhede. 'n Aansienlike gedeelte van die skare was na my beskouing min of meer in dieselfde posisie as die skare aan die suidelike kant wat uitsig op die gebeure by die hek betref. Hulle sou ook na vore gebeur het om, indien moontlik, 'n uitsig op die gebeure te kry. Dit sou die geweldige drukking teen

onmiddellik daarop gereageer het - anders as in die geval van diegene wat verder weg was en ook nie 'n behoorlike uitsig gehad het nie. As daar ook nog 'n groep by was wat bestaan het uit die veglustige jong Bantoes wat tot op die einde die polisie in Seeiso-straat vasgekeer het, kan 'n mens begryp dat hulle wel emosioneel gereed sou gewees het om aan te val met die een of die ander opset waarna ek hierbo verwys het. (Volgens een van die lede van die Pan Africanist Congress wat voor my getuig het was daar 'n groep van hulle wat bereid sou gewees het om hulle lewens in te boet). Indien hulle in 'n oomblik van uiterste spanning nog aan Saracens en polisie-bewapening sou dink - wat te betwyfel is - sou dit hulle nie noodwendig gestuit het nie. Die getuienis dui daarop dat 'n hoogtepunt wel bereik was onmiddellik voor die indringing by die hek. Daar is egter ander oorwegings wat met hierdie vraag in verband gebring moet word. Volgens luitenant-kolonel Spengler het die indringing so plaasgevind:

"Ek het toe weer beveel dat die hek toegemaak word, en daar bly staan. Terwyl ek nog daar gestaan het, het 'n Bantoe doodluiters aangestap na die hek gekom, en voor die hek kom stilstaan. Ek het weer vir hom gevra, 'Wat wil julle hê?'

Dit was toe 'n ander Bantoe? --- 'n Ander Bantoe, ja. Hy het gesê, 'I wish to surrender myself. I and my people don't want to carry passes'. Ek het die Bantoekonstabel beveel om die hek oop te maak, en toe die Naturel probeer om in te kom, het van agter die Naturelle vorentoe gebeur; soveel so, dat ek omgestamp was. Terwyl ek in 'n bukkende posisie was, het klippe begin reën, en nog voor ek orent kon kom, het ek skote gehoor val.

Die Bantoes wat vorentoe gebeur het, wat was die gevolg? --- Die gevolg was dat Bantoes by die hek ingestroom het.

omheining veroorsaak het. (Dit sou na my mening die oorsaak daarvan gewees het dat die omheining later meer oorgedruk was as toe Berry dit waargeneem het). Ek kan my ook voorstel dat selfs diegene wat teenaan die omheining gestaan het sou oorgeleun het om n beter uitsig te kry. Die moontlikheid dat sommige van hulle gedeeltelik teen die draad mag opgeklim het ten einde sover moontlik te kan oorleun kan ook nie uitgesluit word nie. Ek het hierdie soort optrede al dikwels waargeneem by n omheinde voetbalveld wanneer die vleuel na die hoek nael. Geeneen het egter oor die omheining gekom nie. Watter indruk hierdie optrede op n persoon wat dit vanaf n afstand van ongeveer 7 of 8 treë aanskou sou maak laat ek aan die verbeelding oor. Dit is ook n feit dat diegene wat heel voor was feitlik onmiddellik wou terugval toe die eerste skote geknal het. Die wat na agter was het moontlik nie so gou besef wat werklik gaande was nie en het nog steeds na vore gebeur. Hierdie optrede kon moontlik n indruk geskep het dat daardie gedeelte van die skare die "aanval" voortsit. Na my beskouing dui die waarskynlikhede egter eerder daarop dat daar nie n algemene aanval was nie.

281. Advokaat Kentridge het toegegee dat daar een of ander voorval by die hek was, maar betoog dat die getuienis op n onwillekeurige indringing dui. Die toegewing is teenstrydig met die strekking van die getuienis waarop hy hom in hoofsaak verlaat. Afgesien van enige geloofwaardigheidsoorwegings is dit na my beskouing bo redelike twyfel bewys dat n voorval by die hek die onmiddellike oorsaak van die eerste skote was. Die getuienis dui sterk op die moontlikheid dat daar n poging mag gewees het of om n algemene aanval voor te gaan of om n beperkte aanval op die polisie by die hek te doen. Die persone in die onmiddellike omgewing van die dubbelhek was die enigste wat te alle tye gesien het wat daar plaasvind. Hulle sou ook

Hoe ver het hulle werklik deur die hek gekom? --- n Tree of twee.

Hoeveel, sou u sê, het so deurgekom? --- Seker 100 of 200; wat in was, was seker omtrent 50; maar wat die stroom toe ingebring het by die hek, was seker 100 of 200, binne n paar sekondes.

Wat was u indruk; wat was die bedoeling van daardie beuring? --- Ek het gevoel dat hulle n aanval loods.".

Onder kruisverhoor het hy toegegee dat die drukking van die skare van agter die voorstes kon laat indring het. Ek het reeds daarna verwys dat dit baie waarskynlik is dat die digste samedromming in die omgewing van die dubbelhek was. Hulle het slegs vir n afstand van twee treë ingedring en het blykbaar geen poging gedoen om luitenant-kolonel Spengler of enige ander lid van die polisiemag by die hek aan te val nie. Hulle het feitlik onmiddellik teruggeval. Dit is egter nie duidelik of hulle eers na die eerste skote of selfs al voor dit teruggeval het nie. (Daar is getuienis dat hulle by een of twee vorige geleenthede ook ingedring het, maar sonder enige werklike teenstand teruggekeer het sodra die hekke toegedruk was). Die omstandighede waaronder die hek oopgemaak was en die betoger binnegekom het asook die manier waarop die indringing plaasgevind het, dui na my beskouing op die moontlikheid dat die voorstes in werklikheid ingedruk was. As daar n opsetlike indringing was sou ek verwag het dat die beweging verder gevoer sou gewees het. Indien ek al die getuienis en waarskynlikhede in verband bring is dit my besluit dat ek nog kan bevind dat daar n aanval by die hek was nog dat daar in werklikheid geen aanval was nie.

282. Hoe dit ookal sy, die eerste skote van die polisie het n beslissende uitwerking op die gebeure gehad. Dit dien geen

nuttige doel om te oorweeg hoe sake sou verloop het indien daar nie op daardie oomblik geskiet was nie. Moontlik sou daar geen lewensverlies gewees het nie. Dis ook moontlik dat daar n erger bloedbad kon gewees het.

283. Die polisie het sonder n bevel daartoe geskiet. Daar een en moontlik twee waarneembare onderbrekings was daar aanhoudend gevuur totdat die skare uiteengegaan het. Sommige polisie het slegs n paar skote geskiet en toe uit eie beweging opgehou. Party het tot 10 rondtes met n .303 geweer en andere tot 12 rondtes met n .38 rewolwer geskiet en eers opgehou nadat hulle beveel was om vuur te staak. Heelwat skattings is gedoen van hoe lank daar geskiet was. Op die veronderstelling dat die opgawes wat gedoen is oor die aantal skote wat geskiet was betroubaar is, sou ek meen dat dit onwaarskynlik is dat daar vir n korter tydperk as ongeveer 12 sekondes gevuur was. Hierdie berekening geskied na aanleiding van die tyd wat dit sou neem om bv., 6 skote met n .38 rewolwer te skiet, die leë doppies uit te haal, nog 6 rondtes te laai en hulle ook af te skiet. Om die maksimum tydperk vas te stel is moeiliker. As al die getuienis in ag geneem word, meen ek dat dit uiters onwaarskynlik is dat dit langer as ongeveer 20/25 sekondes geduur het.

284. Verskeie offisiere getuig oor die omstandighede waaronder die vuur gestaak is. Luitenant-kolonel Pienaar getuig as volg:

> "Then, when the firing started, what did you do? --- When the firing started, at that time they were densely massed up against the fence, on all sides, so far as I could see. Some of them swung round immediately. Others bore forward for a few seconds longer and then the whole lot scattered in all directions.

But what I really want to know: What steps did you take, yourself? --- Then, when I saw that they were now in full retreat, I and Captain Theron and some of the other officers jumped amongst the men and shouted 'Stop!' I waved my hands; an order could not be heard, then.

Am I understanding you correctly that after the firing started, you first watched the reaction of the crowd? --- Yes.

Before you asked the men to stop? --- I did, yes. Some of them swung round almost at once; others still bore forward for a few seconds. Then the whole mass ran off.

What did you do to stop the firing? --- I jumped in front of the men at some danger to myself of being hit. I waved my hands and shouted 'Stop!' as loud as I could.

Did the firing stop immediately? --- Well, not immediately but probably a second or two afterwards.

And were you the only one to shout 'Stop!'? --- No. Captain Theron, who was in my immediate vicinity, did the same.

And did you hear a whistle? --- Well, just before the seconds, I should say, before the firing was finished completely, I heard a whistle.

Where did that come from? --- I am under the impression that it came from Captain Crummer, on a saracen. It came from a saracen; I could not be sure, but it came from the saracens.

The machine guns on the saracens were never put into operation at all? --- No. I must say that the fire could not have lasted longer than ten seconds; ten seconds is a relatively long time. If it had lasted longer, there must have been very many more casualties. Every second would have (inaudible).

- ADJOURNED: 11.15 a.m. -
- RESUMED: 11.30 a.m. -

GIDEON DANIEL PIENAAR, still under oath:

EXAMINATION BY MR. CLAASSEN CONTINUED:

Colonel, I think your last reply was that you estimated the time of the shooting to have been ten seconds? --- At what stage?

The duration of the shooting? --- Oh, ten seconds. I am positive that it could not have lasted longer.

Do you think that the shooting continued after the danger that you saw had been ....? --- I calculate that after the first five or six seconds, according to my judgment, the necessity for firing had stopped, and that is when we jumped in and gave the order to stop.

Do you mean by that that the shooting continued after you thought that the necessity was no longer there? --- Once fire has started, you cannot stop it with press button precision. Men are only human; they are liable to get excited; they must form their own judgment. Some may have been late in forming a judgment. It is possible that about three seconds elapsed before - according to my judgment - the necessity for fire had ceased.

Then, after the firing had ceased, what orders did you give, what steps did you take? --- I immediately gave orders that the wounded had to be attended to, the ambulance had to be called and a search had to be made for weapons and brought in.".

285. Luitenant-kolonel Spengler het ook daaroor getuig as volg (in kruisverhoor):

"Do I understand that you attempted to stop the shooting as soon as you were able to do so? --- Dit is reg, ja.

Would that mean as soon as you could get to your feet? --- Ek het op gekom op my voete, eers na die skare gekyk; toe was dit of daar n warboel is. Die voorstes wou agtertoe en die agterstes was of hulle wou stilstaan, of hulle wou vorentoe kom; en toe was dit asof die geledere breek en hulle begin weghardloop. Toe het ek omgedraai en geskree 'Stop!' en die geweers probeer in die lug op druk.

You got to your feet, of course, as soon as you could? --- Dit het moeilik gegaan. My voete was half teen die hek vas gewees. Maar ek het probeer so gou moontlik op my voete kom.

And what did you do to stop the shooting? --- Ek het geskree, 'Stop vuur!' en die man wat agter my was se geweer in die lug op gedruk.

Now, in which direction was he shooting? --- Hy het in my opinie reguit geskiet.

A sten gunner? --- Ja.

DIE VOORSITTER: Dit wil sê, reg na wes? --- Reg na Wes, ja.

CROSS-EXAMINATION CONTINUED: Right past you? --- Ja.

And did you do that knocking up of this gun at the same as you shouted 'Stop shooting'? --- Ek het eers geskree 'Stop vuur!' maar ek twyfel of iemand dit kon gehoor het, want die gekletter van die vuurwapens was hard gewees. Toe het ek die geweer in die lug op gedruk.

You talk about the one thing and then the other; but I suppose the interval between your shout and your knocking up the gun was a fraction of a second? --- Dit is reg.

And as soon as you did that, did the shooting stop, or did it go on for some while after that? --- Dit het geleidelik afgeneem.

How long - I know it is difficult, but give me your

estimate; from the time when you knocked the sten gun upwards, for how many seconds after that would you say shooting continued? --- Seker vir drie tot vyf sekondes. Not longer than that? --- Ek glo nie. Dit is moeilik. I know it is difficult, but is that your impression? --- Ek reken dit was tussen drie tot vyf sekondes gewees. That is the main volley of shooting, or is it everything, including the ragged ...? --- Dit was alles afgehandel, toe.".

Sy skatting was dat vir ongeveer 15 sekondes gevuur was.

286. Luitenant Claassen beskryf dit as volg:

"En hoe het dit werklik tot einde geloop? --- Toe ek sien dat die skare begin omswaai en op die vlug slaan, het ek onmiddellik geskree, 'Staak vuur!' 'Stop!' Toe het die skietery opgehou. Party van die skare het dadelik, onmiddellik toe die skietery begin het, omgeswaai en weggehardloop. Ander van agter het nog na vore gebeur. Maar hulle het ook op die vlug geslaan toe hulle sien dat hulle medemense begin val langs hulle.

Toe jy geskree het 'Stop vuur!', het jy dit gedoen omdat jy so'n bevel van die kolonel gehoor het, of het jy dit op jou eie gedoen? --- Ek het dit op my eie gedoen. Ek het gemeen dat die gevaar tydelik afgeweer is en dat die noodsaaklikheid om verder te vuur, nie meer bestaan nie.

DIE VOORSITTER: Maar het jy hulle aangesê om te staak vandat u daarvan bewus was dat daar nie 'n bevel was om te vuur nie, of omdat u gemeen het die vuur was geregverdig maar dit moet nou stop gesit word want dit sal nie verder geregverdig wees nie? --- Ja; ek het gemeen dat dit nie verder geregverdig is, toe ek sien die skare begin vlug nie.

Toe die vuur begin het, was u natuurlik daarvan bewus dat daar nie 'n bevel gegee is nie? --- Ek het nie 'n bevel gehoor nie, maar ek het gemeen dat daar moontlik so'n bevel kon gewees het.

VERHOOR HERVAT: Wat was die reaksie van die skietery op die skare soos wat jy dit gesien het? --- Die skare het dadelik omgeswaai en begin vlug, maar sommige het nog geaarsel en nog na vore gekom; veral van agter het ek gesien dat daar nog was wat na vore gedruk het. Maar hulle het ook, toe hulle sien dat daar mense begin val, omgeswaai en weggehardloop. Die skare was taamlik dig. Hulle het mekaar onderstebo gehardloop. Die wat omgeswaai het, en die wat van agter na vore gebeur het, het gebots met mekaar, en baie van hulle het mekaar onderstebo gehardloop.

Toe die laaste skote geval het, was daar nog van die Bantoes teen die draad, of was hulle weg van die draad af? --- Nee; hulle was nie meer teen die draad, sover ek weet nie.

Toe die laaste skote geval het, hoe ver, sou u sê, was hulle van die draad af? --- Ek sou sê hulle was dwarsoor die straat. Sommige was nog in die middel van die straat toe die laaste skote geval het, en sommige het in die aangrensende veld gehardloop.".

287. Luitenant Freemantle se getuienis is:

"Het jy ook gehelp om die mense te kry om te stop skiet? --- Ek het, ja. Ek het hulle gehelp stop.

Wat het jy gedoen? --- Ek het geskree 'Stop!' en party se gewere afgeruk, en hulle aangesê om te stop.

Waarom het jy dit gedoen? --- Omdat net na die eerste sarsie, toe het die skare al stilgestaan en het toe, net

asof hulle begin maal. Party het half omgedraai, en daarna het ek gesien hulle slaan op die vlug, en ek het hulle gestop.

Het jy moeilikheid gehad om hulle te kry om op te hou vuur? --- Ek het nie moeilikheid gehad daar waar hulle my kon hoor nie. Hulle het onmiddellik my fluitjie gehoor blaas, en net daarna het die skote opgehou.".

288. Ten slotte verwys ek na die getuienis van Labuschagne wat ook hand bygesit het, hoewel hy nie lid van die polisiemag was nie:

"Kon jy uitmaak wat die reaksie van die skare was na die skietery begin het? --- Daar was niemand oor na die skietery nie.

Nee, maar ek bedoel, onmiddellik toe die eerste skote begin val; kon jy enige reaksie sien? --- Dit het my laat dink aan 'n koringland, waar 'n warrelwind hom ruk. Dit was net so; dit was nèt so gewees en hulle was weg, en die wat gewond was het agtergebly. Dit was blitsvinnig gewees.

Was sou jy sê as die Polisie sê vir 30 sekondes aangehou en geskiet het - was daar nog nodigheid vir só lank skiet? --- Dit is moeilik om te sê, want nadat die eerste skote geval het, het almal gehardloop en na twintig sekondes weet ek nie of daar nog iemand oor was nie. Dit was so blitsvinnig gewees; toe die eerste skote val, het die skare somar verdwyn. Hulle het oormekaar gehardloop en getrap. Hulle het by die kliniek dwarsoor die drade geval, somar bo-op hulle koppe.

DIE VOORSITTER: Het u enigsinds opgelet, nie met betrekking tot sekondes nie want tydskatting is baie moeilik; maar u het in gedagte wanneer die skietery opgehou het? --- Ja.

Nou, wat ek wil weet, toe die skietery ophou wat was die toneel voor u gewees - daardie moment toe die skote opgehou het. Wat het u gesien? --- Toe die eerste skote val en die skare wegspring, het kolonel Pienaar geskree 'Stop!' en ek het geskree 'Stop!'. Toe ek die manne so slaan, toe ek opkyk, het ek net gewonde mense voor my gesien.

En was hulle nog toe besig gewees om te skiet, of was die skietery toe al verby? --- Nee; hulle het toe dadelik gestop.

Het u enige begrip van hoe lank dertig sekondes is? --- Ja. Ek skiet baie skyf, en snel-vuur weet ek, min of meer, hoe vinnig n mens skiet. As ek sê dertig sekondes, sou ek sê dit was baie lank.".

289. Die algemene indruk wat die getuienis skep is dat hoewel enkele lede van die polisie-linie op eie houtjie die vuur gestaak het, die meerderheid dit as gevolg van n bevel gedoen het. Dit is onmoontlik om met enige mate van akkuraatheid te bepaal op watter tydstip die bevel gegee was. Luitenant-kolonel Pienaar se skatting dui daarop dat daar vir ongeveer 5 na 6 sekondes gevuur was voordat hy die bevel om te staak gegee het en dat nog 3 na 4 sekondes daarna verloop het voordat die vuur inderdaad opgehou het. Luitenant-kolonel Spengler het geskat dat daar vir ongeveer 15 sekondes gevuur was en dat die bevel om te staak gegee was na daar vir ongeveer 5 sekondes geskiet was. Hy het toe onmiddellik daarna n persoon wat met n sten-geweer geskiet het stopgesit deur die loop in die lug op te stamp. Toe was daar vir nog ongeveer 3 na 5 sekondes geskiet. Labuschagne skep die indruk dat luitenant-kolonel Pienaar "stop" geskreeu het onmiddellik na die eerste skote afgeskiet was. By verdere

ondervraging het hy dit gestel dat die bevel na 20 sekondes gegee was en dat die vuur amper onmiddellik daarna opgehou het. Dit blyk dus onveilig te wees om dit bloot as n rekenkundige vraag te beskou of om beskrywings soos "onmiddellik na die eerste skote" letterlik te aanvaar. So ook kan getuienis dat die vuur amper onmiddellik na die bevel om te staak opgehou het nie letterlik aanvaar word nie.

290. Die waarskynlikhede dui na my beskouing daarop dat luitenant-kolonel Pienaar en die ander offisiere binne n betreklike kort tydperk na die eerste skote afgeskiet was stappe gedoen het om die vuur stop te sit. Volgens luitenant-kolonel Pienaar het hy gevaar by die omgewing van die hek gesien en sou hy toe feitlik op die punt gestaan het om n beperkte opdrag om in daardie rigting te skiet, te gee. Hy sê dat hy nog n paar sekondes sou gewag het voordat hy n algemene opdrag om te skiet sou gegee het ten einde homself te verseker dat die aanval deur die skare nie slegs tot die omgewing van die hek beperk was nie. Sy indruk was dat die skare nie as n geheel onmiddellik na die eerste skote teruggeval het nie, maar dat dié wat agter was nog na vore gebeur het. Dit is dus duidelik dat hy nie die bevel tot staking van vuur gegee het bloot omdat die polisie in die linie sy opdrag dat hulle slegs op sy bevel moes vuur verontagsaam het nie, maar omdat hy eers die posisie dopgehou het en toe sy bevel gegee het na hy besluit het dat die skare as n geheel besig was om terug te val. Dit was dus onvermydelik dat daar n tydsverloop moes gewees het tussen die afskiet van die eerste skote en die gee van die bevel tot staking van vuur. Dit is n onbegonne taak om hierdie tydsverloop in terme van sekondes te stel.

291. Dit is ook duidelik dat daar n tydsverloop was tussen die gee van die bevel tot staking van vuur en die uitvoering

van die opdrag deur die manne in die linie. Luitenant-kolonel Pienaar het dit gestel: "Once fire has started you cannot stop it with press button precision", en verwys na die spanning en opgewondenheid waaronder die manne verkeer het. Na my beskouing is dit ook waarskynlik dat ander faktore daartoe bygedra het om die tydsverloop tussen die bevel tot staking van vuur en die laaste skote te verleng. Daar moet onthou word dat die manne in die linie nie gelyk begin skiet het nie. Ek het reeds daarna verwys dat dit waarskynlik is dat die manne regoor die hek eerste geskiet het. Dit was ook nie die geval dat al die manne teen dieselfde tempo geskiet het totdat die vuur eindelik gestaak was nie. Hoewel ek nie wil voorgee dat dit met sekerheid bepaal kan word nie, meen ek tog dat daar omstandighede is wat daarop dui dat die manne in die omgewing van die hek eerste opgehou het om te skiet. Ek meen dat dit uit die getuienis blyk dat daar meer offisiere in daardie omgewing as elders by die suidelike en noordelike flanke was. Labuschagne was ook in daardie omgewing. Hulle gesamentlike pogings om die vuur stop te sit sou eerder in hulle onmiddellike omgewing effek gehad het. Vir sover dit die manne in die linie betref moet in gedagte gehou word dat ek reeds die mening gewaag het dat die skare in die omgewing van die hek waarskynlik eerste gewyk het. Nou moet ook nog onthou word dat die skare nie direk weswaarts kon vlug nie, maar verplig was om of in n suidelike of in n noordelike rigting te hardloop. Dit is dus na my beskouing waarskynlik dat dit op n bepaalde tydstip die posisie was dat die skare teenoor die manne wat in die omgewing van die hek gestaan het yler sou gewees het as elders in die straat. Die grootste samedromming was by die omgewing van die hek en daardie Bantoes moes na die een of die ander kant wyk. Die manne in die omgewing van die hek

sou dus waarskynlik eerste in staat gewees het om n eie opinie te vorm oor die moontlike verdere optrede van die skare. Hierdie omstandigheid asook die optrede van die offisiere het na my beskouing die uitwerking gehad dat die manne in die omgewing van die hek die eerste was om vuur te staak en dat manne aan die noordelike en veral die suidelike flanke daarna nog geskiet het. Die waarskynlike rede is dat die bevel eers sekondes later tot hulle deurgedring het en n malende massa betogers nog voor hulle in die straat was op n tydstip toe die skare in die omgewing van die hek reeds yler was. Na my beskouing is dit waarskynlik ook een van die redes waarom daar betreklik gesproke minder ongevalle in die omgewing van die hek as bv. in die rigting van Zwane-straat was.

292. Daar was heelwat teenstrydige getuienis oor die aard van die vuur, nl., of daar onderbrekings was. Afgesien van die feit dat daar moontlik n onderbreking was na die eerste skote by die hek afgeskiet was en voordat die andere begin skiet het, is dit onmoontlik om te bepaal of daar ook nog ander onderbrekings was al dan nie. Wat moontlik is, is dat daar afwisseling was in die aantal wapens wat gelyktydig gevuur het, en dat dit n indruk van aparte sarsies geskep het. Hoe dit ookal sy, dit blyk waarskynlik te wees dat na die bevel tot staking gegee was die vuur nog deur manne aan die noordelike flank en veral deur die aan die suidelike flank van die linie voortgesit was vir n tydperk wat moontlik net so lank was soos die tydperk wat die bevel voorafgegaan het, maar waarskynlik n bietjie korter was.

293. Ek het reeds verwys na die getuienis wat betrekking het op die reaksie van die skare op die vuur. Die getuienis van sommige getuies skep die indruk dat die polisie op die

agterhoede van die vlugtende skare geskiet het nadat hulle reeds ver van die onmiddellike omgewing van die polisiestasie gevorder het. In hierdie verband was daar die getuienis van enkele getuies dat hulle getref was toe hulle reeds sover as van 50 na 100 treë gehardloop het. Daar is ook getuienis dat dooies en beseerdes op die oop terrein aan die noordwestelike en noordelike kante van die polisiestasie aangetref was. In hierdie verband moet egter onthou word dat hierdie ongevalle 'n betreklike klein minderheid van die totale aantal ongevalle uitmaak. Die betoog in verband met hierdie aspek van die gebeure het egter in hoofsaak gesteun op die onbetwiste feit dat 'n ontleding van die beserings daarop dui dat nagenoeg 70% van die ingangswonde aan die rugkant was (d.w.s. of reg of skuins van agter).

294. Oppervlakkig beskou blyk dit of die feite waarna hierbo verwys is die betoog steun. Na my beskouing moet al die relevante feite egter met mekaar in verband gebring word, en as dit gedoen word blyk dit dat die besluit waarop die betoog mik nie die enigste en ook nie die korrekte een is nie.

295. Vir sover die betoog op die feit steun dat 'n minderheid van dooies en beseerdes op 'n betreklike lang afstand van die polisiestasie aangetref was blyk dit dat sekere daarmee in verband staande oorwegings uit die oog verloor is. 'n Paar getuies het getuig oor waar hulle gestaan het toe die eerste skote afgeskiet was, wanneer en waarheen hulle gevlug het en op watter tydstip en hoe hulle verwond was. Wat die orige ongevalle in hierdie kategorie betref is daar egter geen getuienis oor waar hulle was toe die eerste skote geknal het nie, of die ingangswonde aan die voorkant of rugkant was nie, hoeveel gedood en hoeveel slegs verwond was nie, en of die beserings opgedoen was by die plek waar hulle aangetref was of

nader aan die polisiestasie nie. Afgesien van die getuies wat voor my getuig het oor hulle bewegings nadat hulle raakgeskiet was, is daar ook mediese getuienis wat daarop dui dat dit moontlik is dat persone wat beseer was tog nog sou kon beweeg het tensy hulle n doodskoot ontvang het. Dit is dus onmoontlik om te besluit dat dooies of verwondes wat op n afstand aangetref was noodwendig daar raakgeskiet was, en daar bestaan selfs nog minder regverdiging vir die besluit dat hulle deur die laaste koeëls getref was en nie vroeër nie.

296. Ek meen dat die getuienis daarop dui dat die oorgrote meerderheid van die ongevalle in die onmiddellike omgewing van die polisiestasie aangetref was, en veral in die straat aan die westekant vanaf die omgewing van die dubbelhek na die kruising van daardie straat en Zwane-straat. Daar was ook ongevalle aangetref onmiddellik aan die oostelike, suidelike en westelike kante van hierdie kruising. Ek het reeds daarna verwys dat hoewel die getuienis nie te duidelik is nie, dit tog blyk dat daar geen of slegs enkele dooies of verwondes binne n paar treë vanaf die draadomheining gevind was. Aangesien die oorwig van getuienis bewys dat die skare as n geheel nie voor die eerste skote geknal het teruggeval het nie (al sou aanvaar word dat sommige dit tog wel gedoen het) het dit my eers vreemd voorgekom dat so min persone naby die omheining na die voorval aangetref is. Na my beskouing is die volgende die enigste bevredigende uitleg. Die eerste skote het by die hek geknal. Ek is geneig om die getuienis dat daar eers laag geskiet was te aanvaar, al sou dit dan net gewees het omdat polisie tussen die linie en die hek was. Die betogers by die hek het onmiddellik begin terugval. Dit is ook moontlik dat van die betogers wat elders teenaan die westelike omheining gestaan het binne n sekonde of wat besef

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het dat daar geskiet word en geprobeer het om te vlug. Die skare wat meer na agter gestaan het, het nog na vore gebeur. Die res van die polisie-linie het begin vuur, en daar is getuienis dat van hulle ook aanvanklik laag gevuur het. (Daar moet onthou word dat 'n ontleding van die mediese getuienis daarop dui dat nagenoeg 280 koeëlwonde getel was. Party persone is deur meer as een koeël getref, terwyl daar vermoedelik ook gevalle sou gewees het waar een koeël meer as een persoon verwond het. Daar moet ook nog rekening gehou word met die feit dat persone wat ligte beserings opgedoen het of andersins die feit dat hulle verwond was wou verberg het nie na die hospitaal gegaan het nie. As alles in ag geneem word blyk dit tog dat ongeveer 'n helfte van die 700 en meer koeëls wat afgeskiet was niemand getref het nie. Die waarskynlikheid is dus dat baie van die polisie op die een of ander tyd of laag of hoog moes geskiet het, en hulle getuienis in daardie verband skyn dus aanvaarbaar te wees.) Dit sou die betogers naby die draad nog 'n sekonde of wat gegun het om terug te val teen die stroom in van die wat nog na vore gebeur het. Toe daar op daardie stadium op die skare gevuur word sou daar dus 'n wemelende massa betogers voor die polisie-linie gewees het. Die waarskynlikheid is dat van die menigte wat vir hulle eie behoud platgeval het die meerderheid van diegene wat naaste aan die polisie was sou gewees het. (Sommige van hulle was getref waar hulle gelê het - heelwaarskynlik deur opslagkoeëls of skote wat laag gemik was). Daar is ook getuienis dat van dié wat raakgeskiet was nog weg gekruip het. Na my beskouing is dit op die getuienis die waarskynlikste uitleg vir die feit dat so min dooies of verwondes naby die omheining aangetref was.

297. U Eksellensie sal in gedagte hou dat op die tydstip toe die polisie met mening op die skare begin vuur het was die

skare nie n statiese massa nie. Sommige beur na agter, sommige nog na vore, andere koes die kant en dan daardie kant. Baie het platgeval en tot na die laaste skote bly lê. Intussen word daar geskiet. Na nog n paar sekondes sou selfs die wat agter was en die laaste was om na vore te beur besef het dat hulle in gevaar verkeer en pogings gedoen het om te vlug deur om te draai of suid of noord te hardloop. Dit is na my beskouing waarskynlik dat die polisie - en veral die vanaf die middel na die suidelike flank van die linie - nog besig was om te vuur. En op daardie tydstip sou daar nog n massa betogers teenoor hulle in die straat gewees het. As al hierdie feite in gedagte gehou word dan is dit na my beskouing verstaanbaar waarom so baie persone nie van voor getref was nie. Die getuienis bewys na my beskouing dat die oorgrote meerderheid van persone wat of gedood of verwond was geskiet was terwyl hulle nog in die straat aan die westekant van die polisiestasie was, en terwyl daar nog n aansienlike skare was. n Stelling wat daarop neerkom dat die polisie op die agterhoede van n skare wat besig was om van hulle weg te vlug geskiet het kan na my beskouing hoegenaamd nie met die feite gerym word nie. Dit kan ook nie sondermeer aanvaar word dat ongeveer 70% van die ongevalle waarna ek so pas verwys het van agter of skuins van agter geskiet was nie. Om so'n verhouding te kan bepaal sou daar meer inligting moes wees oor die aantal wat elders raakgeskiet was en die aard van hulle verwonding. Ek aanvaar egter as waarskynlik dat n betreklike hoë persentasie van die persone eerder van agter as van voor getref sou gewees het. Ek het ook aanvaar dat dit baie waarskynlik is dat die oorgrote meerderheid van die betogers in die rigting van die polisie sou gekyk het toe die eerste skote geknal het. Fotos wat vroeër van gedeeltes van die skare geneem was dui daarop dat dit op daardie tydstip

nie die geval was nie. Daar is egter n sterk moontlikheid dat van die eerstes wat raakgeskiet was met hulle rugkante op die polisie gekeer was.

298. Daar was langdurige kruisverhoor oor die stappe wat luitenant-kolonel Pienaar sou moes gedoen het om die skare uiteen te jaag voordat die polisie op hulle gevuur het. Na my beskouing is dit nie ter sake nie. Die polisie regverdig hulle optrede met verwysing na die optrede van die betogers wat deur hulle as n aanval beskou was. Hulle sê dat hulle geskiet het omdat hulle lewens in gevaar was. Dit altans is die strekking van die getuienis van al die polisie wat voor my getuig het. Ek het natuurlik nie al die polisie wat geskiet het as getuies geroep nie; maar daar bestaan geen rede om te dink dat enigeen van hulle geskiet het bloot om die skare uiteen te jaag nie. Die polisie, en veral die offisiere, was bewus van die stappe wat gedoen moes word voordat geweld gebruik word om n skare uiteen te jaag. Hulle optrede elders op daardie dag getuig daarvan. Dit val ook nie binne die bestek van hierdie verslag om te besluit of die doen en late van luitenant-kolonel Pienaar gedurende die kort tydperk wat hy by die polisiestasie aanwesig was daarop dui dat hy aan enige pligsversuim of die oortreding van enige wetsbepaling skuldig is nie.

299. Ek het reeds daarna verwys dat die manne wat geskiet het in hulle getuienis voorgee dat hulle op daardie oomblik van oordeel was dat hulle lewens in gevaar was. Of daar so'n gemoedstoestand bestaan het is natuurlik n feite-kwessie. Hoewel sommige van die polisiegetuies my nie beïndruk het nie, meen ek dat dit aanvaar kan word dat hierdie gemoedstoestand waarskynlik aanwesig was by die manne wat gevuur het. Wat die meerderheid van die manne wat getuienis gegee het betref meen ek dat hulle geglo kan word waar hulle gesê het dat dit hulle

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gemoedstoestand was. Wat die res van die manne wat gevuur het betref kan ek natuurlik geen finale besluit waag nie aangesien ek nie hulle getuienis verneem het nie. Dit is egter waarskynlik dat hulle in dieselfde trant sou getuig. Dit val in elk geval nie binne die bestek van hierdie verslag om enige bevinding te doen in verband met die vraag of die manne wat gevuur het, of enige van hulle, ondanks hulle gemoedstoestand soos hierbo aangedui aan pligsversuim of 'n misdryf skuldig is nie.

300. Na die skietvoorval was daar geen verdere poging van die kant van die betogers om weer as 'n eenheid by of in die omgewing van die polisiestasie bymekaar te kom nie. Afgesien van die feit dat enkele voertuie (onder meer die van persmanne) onmiddellik na die skietvoorval onder die klippe gesteek was, was daar blykbaar geen verdere voorvalle van geweldpleging nie.

301. Daar is 'n geskil oor die optrede van die polisie onmiddellik na die vuur gestaak was. Die betoog voor my was dat daar geen stokke of kieries of ander voorwerpe wat as wapens beskryf kon word na die skietvoorval deur die polisie gevind was nie en dat die bewysstukke wat ingedien was nie daardie dag opgetel was nie maar later versamel is. Dit was ook betoog dat die klippe wat as bewysstukke ingedien was op 'n oneerlike manier bymekaar gemaak was en by wyse van meinedige getuienis in verband met die gebeure in verband gebring is. Ek is nie voornemens om tot 'n ontleding van al die getuienis oor te gaan nie. Na my beskouing is die betoog geheel-en-al ongegrond. Ek het reeds daarna verwys dat die getuienis nie 'n bevinding regverdig dat die skare as 'n gewapende skare beskou kon word nie. Die bewysstukke wat ingedien is bewys dit ook gladnie. Wat die klippe betref is

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die betoog net so ongegrond. Aangesien die polisie gevuur het kort na die klipgooiery begin het twyfel ek of daar n besondere groot aantal klippe gegooi was. n Dosyn of wat klippe het die polisie getref. Dit is waarskynlik dat nog meer gegooi was wat niemand getref het nie. Dit is onmoontlik om te bepaal presies hoeveel klippe gegooi was of selfs om by benadering die getal aan te dui. n Vyfgelling kastrol klippe van verskeie groottes is ingedien as synde die klippe wat opgetel was. Ek het die klippe nie getel of laat tel nie - daar kon so min soos 50 of soveel soos 200 gewees het.

302. Dit was ook voor my betoog dat die getuienis daarop dui dat die blanke polisie sonder uitsondering skuldig was aan skandalige vernalatiging van die beseerdes en dat hulle - en blykbaar die Bantoe polisie ook - niks gedoen het om die lyding van die verwondes te versag nie. Die beskuldiging was dat die polisie slegs begaan was om die lyke te verwyder en dat die verwondes aan hulle lot oorgelaat is. Daar is getuienis dat die beseerdes na die sypaadjie gedra was. n Bantoe getuie het getuig dat die Bantoe polisie hierdie persone mishandel het - en dit as gevolg van die uitdruklike opdrag van die blanke polisie gedoen het. Indien hierdie beskuldiging selfs ten dele waar sou wees, sou dit elke regdenkende persoon tot in sy diepste wese skok.

303. Vir sover dit die getuienis voor my betref, skyn dít die feite te wees. Labuschagne, die Superintendent van Sharpeville, getuig dat hy onmiddellik na die vuur gestaak was, na n munisipale voertuig wat buite die polisiestasie-terrein geparkeer was gehardloop het en toe na die munisipale kantore by die ingang na die woonbuurt gejaag het. Vandaar het hy ambulanse ontbied. (Daar moet onthou word dat daar geen telefoniese verbin... ussen die polisiestasie en

Vereeniging was nie). Die Brandweerhoof het getuig dat die eerste oproep om 1.49 nm. vanaf die munisipale kantore ontvang is. Die beskikbare ambulanse het onmiddellik vertrek en na ongeveer 5 minute by die polisiestasie aangekom. Labuschagne het saam met 'n ambulans na die polisiestasie teruggekeer. Die Brandweerhoof (ene Van Vuuren) het vanaf Sharpeville nog meer ambulanse ontbied. Dit blyk ook dat luitenant-kolonel Pienaar onmiddellik opdrag gegee het dat ambulanse ontbied moes word. Luitenant Freemantle het die radiotoestel van 'n Saracen gebruik om ambulanse te ontbied. Hierdie feite was hoegenaamd nie betwis nie. Die eerste ambulanse was dus binne 10 na 15 minute by die polisiestasie en die ambulanspersoneel sou vermoedelik toe in beheer van die hantering van die beseerdes gewees het. Dit was nie voor my betoog dat hulle van enige pligsversuim beskuldig kon word nie.

304. Die Brandweerhoof sê dat toe hy by die polisiestasie aangekom het was die polisie besig om die beseerdes te help. Labuschagne het self ook getuig dat hy hulp verleen het en stappe gedoen het om beseerdes te laat verwyder. Afgesien van die feit dat hy my in die algemeen as 'n geloofwaardige persoon voorgekom het, is dit hoogs onwaarskynlik dat hy afsydig sou gestaan het teenoor inwoners van Sharpeville.

305. Die ambulanspersoneel het blykbaar onmiddellik stappe gedoen om die beseerdes na die hospitaal te verwyder. Die Brandweerhoof het op die toneel gebly totdat al die beseerdes verwyder was. Hy wou klaarblyklik eers die beseerdes help en het die polisie versoek om polisievoertuie te gebruik om lyke so gou moontlik te verwyder sodat die beskikbare ambulanse slegs vir die vervoer van beseerdes gebruik kon word. Die polisie het dit dan ook gedoen. Aangesien daar aansienlik

minder lyke as beseerdes was en aangesien die hantering van lyke vermoedelik minder versigtigheid benodig as die hantering van beseerdes sou ek verwag het dat die lyke met groter spoed verwyder sou geword het. Die polisie het dit op versoek van die ambulanspersoneel gedoen omdat gemeen was dat dit die beseerdes se posisie sou verlig deurdat hulle gouer vervoer kon word. (Die Brandweerhoof het verduidelik dat dit n besonder warm dag was, en dat hy die lyke nie langer as wat nodig was daar wou laat lê nie). Hierdie optrede van die polisie is aangewend as grond vir die beskuldiging dat hulle eers die dooies versorg het.

306. Die getuienis dui daarop dat enkele minute na die laaste skote geskiet was verloop het voordat die polisie die polisiestasieterrein verlaat het en tussen die dooies en beseerdes beweeg het. Ek vermoed dat hulle vir n tydperk sou getalm het om eers vas te stel of die betogers weer sou terugkeer. Daar was blykbaar ook n gevoel van verslaentheid oor wat gebeur het - n verslaggewer van die "Rand Daily Mail" wat daar opgedaag het voor die polisie die polisiestasieterrein verlaat het getuig van sy gewaarwordings in daardie verband.

307. Ek het reeds daarna verwys dat die eerste ambulanse binne 10 na 15 minute opgedaag het en dat die Brandweerhoof toe verantwoordelik was vir die hantering van die ongevalle. Daar bestaan na my beskouing nie die minste regverdiging om sy getuienis te wantrou nie. In elk geval moet ook onthou word dat die polisie nie toegerus was om eerstehulp te verleen nie. Dit is duidelik dat hulle niks in daardie verband gedoen het of kon doen voor die ambulanse opgedaag het nie. Daar is egter getuienis dat van die polisie (blank sowel as Bantoe) en munisipale amptenare die beseerdes in dié opsig tot hulp

gekom het, nl., om hulle in gemakliker posisies te plaas en om water aan hulle te gee. Ek meen dat hulle nie meer kon doen in die paar minute voor die ambulanse opgedaag het nie. Na die ambulanspersoneel opgedaag het sou hulle verantwoordelikheid aanvaar het en die nodige stappe gedoen het. Ek het reeds hierbo daarna verwys dat die polisie sodanige hulp as wat versoek was verleen het.

308. Afgesien van die getuienis van getuies soos bv., Elias Lidia en Eerwaarde Robert Maja, steun die betoog op n aantal fotos wat ene Robinson, fotograaf van die "Rand Daily Mail", kort na die voorval geneem het. Dit is heeltemal korrek dat hierdie fotos nie aandui dat blanke polisie besig is om enige bepaalde beseerde op die tydstip toe die foto geneem was te help nie. Die fotograaf se getuienis dat hy nie die fotos met enige bepaalde opset geneem het nie, bv., om te toon dat slegs Bantoes die beseerdes gehelp het, kan aanvaar word. Elke foto gee n blik van ongeveer 1/50ste van n sekonde van n bepaalde situasie en kan slegs as bewys vir daardie tydperk en ten opsigte van die besondere toneel dien. Daar is soveel aanvaarbare getuienis dat die polisie so gou moontlik stappe gedoen het om hulp vir die beseerdes te ontbied en self ook waar moontlik hulp verleen het, dat die getuienis tot die teendeel verwerp moet word. Dan moet daar na my beskouing ook nog gelet word op die onwaarskynlikheid dat onder die sowat 150 blanke en 140 Bantoe polisie nie n enkele een sou wees wat bereid sou gewees het om n gekerm na water of n versoek om gehelp te word om in n gemakliker posisie te lê te beantwoord nie. Ek kan natuurlik nie beoordeel of die polisie nog meer kon gedoen het nie. Ek het hierbo gehandel met die aantyging dat die polisie opsetlik afsydig gestaan het en die beseerdes aan hulle lot oorgelaat het. Na my beskouing is die aantyging vals.

309. Ek het egter sekere bedenkings oor die optrede van enkele polisie (blanke sowel as Bantoe) na die skietvoorval. Sommige van die beseerdes wat getuienis gegee het, het verwys na opmerkings wat party lede van die polisie hulle laat ontval het. Hoewel party getuies se getuienis klaarblyklik oordrewe was, het andere my weer beïndruk waar hulle getuig het dat enkele lede van die mag woorde teenoor beseerdes gebesig het wat nie alleen onvanpas was nie maar bewys lewer van 'n gesindheid wat skerp veroordeel moet word. Dit dien egter nie ook nog as bewys dat dit die gesindheid deur die bank was nie.

310. Dit het ongeveer 'n uur geneem om die beseerdes te verwyder. Hulle is in hospitale opgeneem. Daar het die mediese praktisyns en ander personeel wonderbaarlike werk gedoen om lewens te red, verminking te voorkom of te verminder en hulle die behandeling te gee wat hulle omstandighede vereis het. Die mediese praktisyns en die personeel verdien lof vir wat hulle gedoen het.

311. Daar het niks noemenswaardig later die dag plaasgevind nie.

SLOT.

312. Ek het hierbo na die beste van my vermoë en so volledig soos moontlik verslag gedoen oor die gebeure waarop U Eksellensie se opdrag betrekking het. Die notule van die verrigtinge en ander dokumente word vir veilige bewaring aan die Sekretaris van Justisie oorhandig.

P.J. WESSELS.

Regterskamers,
Hooggeregshof,
PIETERMARITZBURG.

23/9/1960.

STC 326:792.8
Mzumba.

African folk ballet of power and potential

THE BALLET: Mzumba (Bantu Social Centre).

Star 15/12/66 S

By Frank Morton

WHAT IS HERE CALLED A BALLET is in fact something much more and much less. It is a type of pageant-folk-play where set pieces of singing and dancing are linked by a semblance of action and dialogue.

It is in this respect more unique, though probably less indigenous to the African people.

But that it has a considerable potential was plain from last night's preview.

It is highly stylised — a blend of raw folk art with a measure of more commonplace theatrical exposition.

While I can see no good reason why this type of show should not be able to combine the elements of both traditions, it did strike me that had it been more balletic throughout in the sense that mime and movement were substituted entirely for dialogue, it might have avoided some of the incongruity and been even more powerful and gripping.

As it is, the type of story dealt with — a journey, a meeting, a romance, a wedding, culminating finally in the sacrifice of the new bride by the witch doctor to the gods of rain — is not far removed from the type of material on which Western classical ballet has been established. And, of course, the main emphasis is upon the ensemble scenes, the marriage, the casting of the bones, the sacrifice.

It struck me forcibly during last night's performance that here, perhaps, was the nucleus of a completely African folk ballet, such as many peoples have attempted to develop in recent times in order to give artistic expression to particular traditions and traits of their nation.

For this reason alone it was a stimulating evening.

The huge and at times terrifying vigour of the artists carried all before them with a sweep. The only musical instruments used were drums, with the odd shrieking cadences of a reed whistle.

Otherwise the dancing ensembles were accompanied by singing — that weird, powerful harmony of African voices, which in its violence and impact can produce effects no symphony orchestra ever could.

I, for one, should be very interested to see it again, presented on a more suitable stage, and in greater detail.

I think that then we might find we have indeed a significant new kind of folk ballet to show the world.

Pages
17 to 26
omitted.
See Supplement

however, even now required that a magistrate or police officer

> "shall endeavour to draw the attention of such persons in a manner which appears to him best suited to the circumstances and.... shall command them in a loud voice to disperse or to discontinue the conduct in question forthwith and shall warn them that if they fail to disperse or discontinue such conduct within a space of time stipulated by him, force will be used."

Only after such command has been "uttered thrice" and the crowd has failed to disperse may force be used. Moreover "the degree of force so used shall so far as possible be limited to the achievement of the objects for which it is applied ". "Firearms or other weapons likely to cause serious bodily injury shall not be used unless in the opinion of the magistrate, commissioned officer or authorized officer" (viz. a police officer of a rank not lower than the rank of sergeant duly authorised thereto by a commissioned officer) "such a course is essential in the public interest or for the protection of life or property". It is not surprising that even in a state of emergency these standards of behaviour are

still/...

still required of the police; for without them there would result what Macaulay called "the most frightful of all spectacles, the strength of civilization without its mercy".

19. The Standing Orders of the S.A. Police relating to the use of Arms (Appendix IV hereto) specifically enjoin members of the Force to render obedience to the principles which have been set out above. The opening sentence of Reg. 741 makes it clear that -

> "...members are entrusted with arms for their own preservation and that of their barracks and prisoners..."

and that -

> "... It cannot be too strongly impressed on every policeman how essential it is, not only to guard against the slightest misuse of his arms, but to observe the utmost forbearance that humanity, combined with prudence, can dictate, before incurring the moral as well as legal responsibility of firing upon the people - a measure which should never be resorted to until every other means shall have failed to ensure the preservation ofpeace and good order."

According/...

According to Lt. Claassen (pp. 887, 892), this doctrine forms part of the training of every member of the Force. So too, Reg. 746 warns policemen that if they use fire-arms they must -

> "be well prepared to prove that they acted with becoming humanity, caution and prudence, that they were compelled by necessity alone to have recourse to their arms, and that no more force, or no more dangerous weapon, was used than was necessary in the circumstances."

Reg. 748 lays down the salutary ultimate principle, or "final warning" as it is called:-

> "When in doubt, do not fire."

20. Standing Orders provide the following guidance of a more specific kind for members of the Force:-

(a) Whenever the police, acting under orders, shall receive directions to fire, they must not on any account do so except by regular word of command from their senior officer or other senior present (Reg. 745 (4)).

(b) The senior officer present must give all

his attention to the supervision of the men acting under his orders and must give deliberate word of command to fire a specific number of rounds (Reg. 745 (5)).

(c) No greater number of men are to be detailed to fire than is considered absolutely necessary (Reg. 745 (6)).

(d) The officer in command must exercise the utmost forbearance, consistent with the safety of the party, before he gives the order to fire and must, in every instance, exercise a humane discretion as to the extent of such firing (Reg. 745 (7)).

(e) The firing ought to be at the leaders of the riot or at the assailants of the Force, and, if possible, with effect (Reg. 745 (2)). In other words, it ought not to be indiscriminate. (Reg. 745 (3)).

(f) No shot must be fired after the necessity for firing has ceased to exist (Reg. 745 (8)).

(g) It follows that the officer in command must -

(i) ascertain all the relevant facts of the emergency in order to enable himself to exercise a proper discretion:

Lt. Claassens, pp. 889, 898;

(ii) guard against the slightest misuse by his men of their arms:
Lt. Claassen, p. 889;
Cf. Capt. Coetzee, p. 963;

(iii) ensure that he deploys his men so that his commands can be communicated to them in all the circumstances of the emergency:
Lt. Claassen, pp. 889, 891.

These conclusions, which were endorsed by Lt. Claassen, a police officer of 30 years experience, demonstrate the practical steps which must be taken if any genuine attempt is to be made to apply Standing Orders. They are implicit in Standing Orders and are to be found clearly expressed in the relevant provisions of the Queen's Regulations for the Army, a copy of which is annexed hereto (Appendix V hereto).

(h) For the guidance of policemen not under the command of a senior the following are the circumstances laid down in which they may use their own discretion to open fire:-

(i) If their stations or barracks are attacked;

(ii)/...

(ii) If an attempt is made to deprive them of their arms and their prisoners;

(iii) to defend themselves or another person or persons from death or serious injury, or another person or persons from an unlawful attack;

(iv) Tö effect the arrest or prevent the escape of a prisoner in certain circumstances.
(Reg. 742).

(i) Whenever the circumstances can be met by firing merely to wound or maim, great care should be exercised not to kill; but if a policeman believes on reasonable grounds that he is in imminent danger of death, he is justified in firing to kill (Reg. 743).

21. It is implicit in Standing Orders that the provisions thereof should be known not only to officers - that goes without saying - but also to all members of the Force (Lt. Claassen, pp. 897, 892). They should also so familiarize themselves with the handling of their arms that they have perfect control over them - and, it may be interpolated, over themselves - in action

(Regs./...

(Regs. 741, 743 and 746).

22. Standing Orders contain no directions as to the use of automatic weapons - a somewhat surprising omission in view of the fact that at Sharpeville a large number of non-commissioned police officers and constables were equipped with, and used, Sten sub-machine guns, and the fact that the "Saracens" were equipped with, though their crews did not use, their formidable Browning machine guns. It appears from paragraph 82 of the Report of the Nyasaland Commission of Inquiry (the Devlin Report; Cmnd. 814, p. 41) that in the Federation of Rhodesia and Nyasaland the only member of the police force who is authorised to carry a Sten gun is a platoon commander in the Police Mobile Force (i.e., the Special riot squad of the police, vide para. 73). "Clear instructions" are given that it is never to be used on "automatic" unless "in a desperate emergency". That Commission pointed out that "the Sten gun although set for single shots, i.e., repetition, may easily fire a burst" and that it "is for this reason an undesirable weapon for use where there are crowds".

D. TOPOGRAPHY.

23. Sharpeville is an African township situated to the west of Vereeniging. Its population is approximately 36,000 people, of whom 8,655 are adult males, 6,943 adult females and 20,863 children under the age of 18 years (Labuschagne, p. 425).

24. The police station is situated not far from the western boundary of the township, near the intersection of the two main thoroughfares, Seeiso Street and Zwane Street. Each street has double carriage-ways separated by an island; and the two streets meet at an acute angle at a traffic circle west of the police station. Seeiso Street is the principal thoroughfare leading to the municipal offices on the eastern boundary of the township and thence to Vereeniging itself. It runs in a direction somewhat north of east, while Zwane Street runs in a direction roughly east from the traffic circle. The police station is at the intersection of Zwane Street and a tarred road which runs from Zwane Street to Seeiso Street. This road is on the western boundary of the police station; and it was in this road and Zwane Street to the south that the crowd congregated.

25. The police station stands in its own grounds and consists of a building containing a charge office, cells and other offices and having an enclosed yard at the back (that is on the north side) in which vehicles may be parked. Access to this yard is gained through a large iron gate in a wall on the western side of the building. To the west of the building is a fairly large open space planted with grass. Thegrounds are enclosed by a 4'6" diamond mesh wire fence in which

there/...

there are two gates - a small gate on the southern side or Zwane Street side giving access to the charge office, and a large double gate on the western side approximately in the middle of the western fence. From this gate a driveway leads to an iron gate in the western wall of the police station building. On the south side the police station building is very close to the fence. The gates in the fence are no higher than the fence itself. Neither gate has a lock.

26. Opposite the police station on the western side of the tarred road connecting Seeiso and Zwane Streets is a municipal clinic which is also surrounded by a fence. This fence on its eastern side corresponds both in length and height with the fence of the police station on the western side. The fence of the clinic and the fence of the police station are approximately 25 paces apart. This tarred road is narrow, and runs north to south at that point but curves away slightly to the west some little distance to the north of the police station. On both the police station side and the clinic side there is a rough though not stony pavement. It is only at the intersection with Zwane Street that these pavements have kerbstones.

27. North of the police station, on the road connecting Zwane and Seeiso Streets and after it curves to the west, there is a block of shops (on the eastern side of the road), and a municipal library (on the western side). There is an open grass field between the shops and the police station and another between the

library/...

library and the clinic. The grass field north of the police station extends for some considerable distance to the east to an area in which there are houses. This field is criss-crossed by a number of pathways.

28. The features described above can be seen on Exhibits B and B. 1., which are aerial photographs of the police station taken from the south, and Exhibits J and K, which are aerial photographs of the police station taken from the north. These photographs were taken between 11 and 11.30 a.m. on 21st March, 1960.