

'cut off'.

Where did you have your supplies of tear gas? --
The tear gas was in the lorry itself.

Readily available? -- Quite available, I should
say.

In what form - were these tear gas grenades? -- Yes,
the ones that you throw.

You can throw a tear gas grenade about as far as
you can throw an ordinary cricket ball or a stone? -- Yes,
more or less.

I take it that you made a study of Police work
in this country and in other countries? -- Yes, I have got
a good grounding in Police work.

You have made a study of the whole question of
dispersing of gatherings? -- I have.

And the control of the public in large numbers?
-- Yes, I have.

I suppose you are well aware that firing at large
gatherings of the public inevitably causes panic? -- It does
- it is the very last thing we resort to.

Yes. Now you are also aware that in many coun-
tries large, unruly and hostile gatherings are frequently
dispersed by the Police with the aid of tear gas? -- Yes, I
have heard about instances like that.

You know that it is a standard practice in Police
work in most countries? -- We have also used tear gas in this
country already with good effects. It all depends on the
prevailing wind and the atmosphere at the time. It is
rather dangerous at times to use it.

Dangerous? -- For the Police themselves.

Dangerous you say? -- Yes, you may throw it out
to try and disperse a crowd and the gas would affect the men
themselves by the wind - they may be on the wrong side.

Yes, but, of course, tear gas, apart from its immediate affect is harmless isn't it? -- Oh! yes. I mean it is fairly harmless.

It has an immediate affect and no other? -- Quite.

Now why didn't you use tear gas on this day? -- The prevailing winds were against us. It was in the middle of the Square and the wind was whirling there.

The wind was doing what? -- There was a sort of a whirling wind there in that particular - with houses on all sides - you had no wind - direct draught through.

No clear prevailing wind? -- No, no clear prevailing wind.

What is the prevailing wind in the East London area - what is the standard prevailing wind? -- We get it mostly from the sea - from the south-west.

On which side of the Square were you? -- We were on the west - west.

The West side? -- Yes.

It was open to you, I presume, for you to take up your position on any portion of the Square? -- In any case, there was no necessity to disperse the crowd with tear gas. As I explained to you, if I had thrown those towards the crowd we would have all been involved in it - the Police and everybody present. The wind was sort of whirling round there.

Did you consider the use of tear gas? -- Well, we had it with us and I always bear that in mind.

But when you gave the order to fire, did you think to yourself "Perhaps I ought to use tear gas first"? -- No, when I gave the order to fire I didn't - there was no - I mean I didn't consider it necessary then to use that at all because our lives were in danger. We were being thrown with stones and I always look upon the throwing of stones as a very dangerous

performance, a very dangerous act.

At that stage one of your men had been hit? --

One had been hit, yes.

Tell me, most of the huts in this location, most of the houses, are made of corrugated iron? -- Mostly corrugated iron, yes.

I suppose a .303 fired into corrugated iron houses could well go through two or three houses? -- It could go quite easily.

And don't you think the firing of .303's is also a very dangerous business? -- Firing is always dangerous to a certain extent.

Didn't it seem to you that you might possibly take the lives of people who were sitting in their houses . . . I said....

Listen to me, please, Major Pohl? -- Very well.

Didn't it occur to you that you might possibly take the lives of people who were quite innocently in their houses and nowhere near the gathering? -- When I gave the order I gave the order that they had to fire at individuals who were throwing stones at us.

You were using ordinary hard-nosed ammunition? -- Yes, ordinary ball ammunition.

It goes straight through any individual who was hit wouldn't it? -- Yes, it can.

And any shots that missed would almost inevitably go into these iron houses in the vicinity? -- Oh! yes, it would, yes.

And you took it upon yourself, Major Pohl, you took the responsibility of giving the order to fire in those circumstances after one of your men had been hit? -- One of the men had been hit and stones were falling all round us.

BY MR. COAKER: NO FURTHER QUESTIONS:

BY PUBLIC PROSECUTOR: RE-EXAMINATION:

When did you first make a statement in connection with these occurrences? -- In connection with?

In connection with the evidence you have been giving here? -- I made it at Kingwilliamstown on the 4th May this year.

And have you been expecting from the 4th May that you might be called upon to give evidence in this case.....

BY MR. BERRANGE: I must, with respect, ask that my learned friend does not put questions that are quite as leading as that.

OBJECTION WITHHELD:

BY P.P. What have you been expecting since you made this statement on the 4th May? -- I was informed at the time by the Member of the Special Branch who took the statement from me that ~~there~~ there was a possibility that I may be called to give evidence.

When were you told to come to Court? -- I got a message through towards the end of last month, just about 4 or 5 days before I came up - towards the end of last month.

Now, I want to know from you, Major, on this day when you proceeded to the Square in the Location, from what distance could you see what was going on on the Square? -- It was only after I arrived on the Square itself practically because the Square is surrounded by dwellings.

How did you arrive there? -- I arrived there with the men in a lorry.

In a lorry? -- Yes, I was in one of the lorries.

What was the first thing you saw on your arrival - was that meeting orderly or was it already in confusion? -- It was all but orderly when I noticed it. When we came round - immediately after we made our appearance, I take it that

there was a general movement among the crowd and, as I say, the A.N.C. flag was flying there. I couldn't hear what was being said, there was so much noise.

But was somebody addressing the gathering when you arrived? -- It appeared to be as if one or the other of the two that were on the stage there were addressing there.

And what was the first thing you did when you came to a stop? -- When we came to a stop I got my men to dismount from the lorries, and then I formed them up at the side of the lorries.

And then? -- Then I went up to the stand where they were.

You said something this morning about the fixing of bayonets? -- Oh! yes, as I ordered them to form up I ordered them to fix bayonets and to come to the Stand-at-ease - that is the usual...

Why did you do that? -- I took the usual precaution in case my men were suddenly attacked. The crowd appeared to be hostile and upset.

BY THE COURT: Mr. Prosecutor, is it necessary to have the evidence recounted?

BY P.P. I just want that fact cleared up about the fixing of the bayonets.

Now you were also questioned about the number of times that you gave the order to the crowd to disperse? -- Yes.

And I want to know how many times this order was stated in English and how many times in Xosa? -- Mine I gave in English and Afrikaans - three times in each language.

BY THE COURT: In English and in Afrikaans? -- Yes, I first gave it three times in English.....

Your personal order? -- My personal order.

BY P.P. Do you know how many times it was given or repeated in Xosa? -- Five times, if I remember correctly.

BY THE COURT: By whom was it repeated? -- By Native Sergeant Manie.

BY P.P. Did you personally attend African National Congress meetings where the objectives of the Defiance Campaign were explained? -- No, it wasn't my duty that.

Did you hear any speeches made by members of the African National Congress in connection with the Defiance Campaign? -- No, I haven't.

You said this morning that the Defiance Campaign was a non-violent movement and I want to know your reasons for saying that? -- Well, I am only dealing with the aspect of the African arrests that were made during the nighttime. I am only concerned with the actual arrests that were made. We went out - I went out one particular night - and none of - and on none of the occasions - did any of these volunteers resist arrest or in any way interfere with us in the execution of our duties. They submitted - they simply submitted. They were collected and taken - escorted - to the Charge Office

BY THE COURT: Is this the reason why you say the Campaign is a non-violence one? -- That is what I know of it, yes.

BY P.P. You were also questioned by my learned friend about the method sometimes - or rather you were questioned about - I don't want to pronounce the words in the way my learned friend did - Agent Provocateurs. Do you know what that term means? -- I know now more or less what it means.

And at that time were you in charge of the Police in Port Elizabeth - at least in East London? -- I was in charge of that particular body of men.

Yes, but generally were you in charge of all the various branches of the Police Force? -- Oh! no, they fell directly under the District Commandant.

And what was your relationship towards the District Commandant? -- I was the Staff Officer in the office itself,

Now, I want you to listen carefully. If persons were placed by the authorities amongst the Natives in the Location with a view to stirring up trouble so as to enable the authorities to take action against them, would you have known about it? -- I would have known. Usually if anything like that were to happen.....

But were such people planted there? -- No.

BY MR. BERRANGE: May we know what the witness was going to say? He said "I would have known. Usually if anything like that happens...."

BY WITNESS: Usually if anything like that is considered we have an Officer's conference.

BY P.P. I didn't hear the answer? -- I say usually when such an important matter is discussed or arranged we have an officer's conference and I would be called in to be present....

BY MR. BERRANGE: That is not what you said. I am sorry, if my learned friend wants to know what he said - what he said was "Usually if anything like that is considered we have an officer's conference."

BY P.P. I just wanted the answer.

BY THE COURT: I think that is what the witness actually said.

BY P.P. And what do you say - were such people placed in the Location? -- No, no such persons were placed there whatsoever.

Then I didn't get your answer in connection with the use of the Sten gun - did you make use of the Sten gun? -- As far as I know, not.

Who had the Sten gun? -- Constable Graham was one in charge - he had one - and I am not too sure who the other one was who - the party who was with Lt. Ley. I couldn't say who the actual man was. There were quite a few of our men capable of handling Sten guns.

Where was Major Olivier stationed at that time? -- Major Olivier was stationed at Grahamstown as Divisional Criminal Investigating Officer. I think at the time - I am not sure now - I think at the time he was Acting Deputy Commissioner in place of Col. Thompson who was on leave.

Now, are you aware of that statement that he is alleged to have made to a group of farmers? -- No, I was not aware of it.

It was suggested it was made at Peddie? -- At Peddie, yes.

BY P.P. NO FURTHER QUESTIONS.

THE CROWN CALLS:

CHARLES ESSEX BOWEN, Sworn States:

BY P.P. Sergeant, you gave evidence on Friday? -- Yes.

I just want to put one question to you in connection with an Exhibit - "G. 983" - it is a document in Xosa - a report of the African National Congress, Cape Branch, the Conference was held on the 26th, 27th June, 1954, at Korsten and it....

BY THE COURT: This is not a document handed in by this witness?

BY P.P. No, it was handed in by another witness - Det. Sgt. Strachan, I think.

This is a report that was presented at this Conference on the 26th, 27th June, 1954, at Korsten in the Cape. Now, I want you to have a look at the signature appearing on the first page of this report and say whether you are in a position to identify that signature? -- Yes, it is signed by T. Enoch Tsunungwe.

Do you know his signature well? -- Yes, I do.

And do you know whether he is one of the Accused? -- He is.

I don't know whether we should go through the procedure again and have him identified.

BY THE COURT: This witness hasn't identified him previously has he? --

BY P.P. I think he did in the course of....

BY THE COURT: I don't know. What is the Defence's attitude?

BY P.P. Well, to shorten proceedings the witness might as well identify the person. Will you please step down.

Your Worship, I don't want to delay the proceedings. There is certain information that the Clerk of the Court can convey to Your Worship in connection with this.

BY THE COURT: Yes, I take it the Defence is informed about the position here. It is a question of saving time.

BY MR. COAKER: I think I appreciate what the position is, Sir. I can't recall whether this particular witness has identified the particular Accused. I prefer not to make any concession at this stage, until I have had an opportunity of seeing from the record whether he has.

BY THE COURT: Are you aware that this particular Accused is not here.

BY MR. COAKER: I think, Your Worship, there is no point in our holding up the proceedings for this sort of thing. I think I am prepared to concede that this witness knows the Accused Tsunungwe.

BY THE COURT: The witness can come back to the witness stand. The Defence is conceding, Mr. Prosecutor, that Tsunungwe is one of the Accused. (Accused No. 124).

BY P.P. NO FURTHER QUESTIONS.

CROSS-EXAMINED BY MR. BERRANGE:

I take it, Mr. Bowen you will concede that when a sentence is taken out of its context it very often loses its meaning, its true meaning, and very often has its sense distorted? -- I don't agree.

You don't agree. You don't, of course, need the context in order to understand what a certain sentence means?

You don't need that? -- No.

Well, lots of your colleagues say they do. However, you don't need it. You don't agree that something that may be said and you don't know that which precedes it or that which succeeds it, may have a totally different impression, or convey a totally different meaning from what appears on the face of it? -- No, I don't agree.

You wouldn't agree to that would you? -- No.

However, you do know, I take it - how long have you been in the Police Force by the way? -- Twenty-four years.

You therefore do know the Police Regulations and you are conversant with Standing Orders? -- Yes.

Are you sure - because you said in rather a hesitating voice? -- I wouldn't say I was conversant with all the Standing Orders.

Police regulations? -- Yes.

You are conversant with them? -- Yes.

Would you agree that in terms of Police Regulations and Standing Orders a Police Officer is required to make a note in his pocket-book of all matters that come to his notice or his attention that are of material importance. I am not talking about trifling inconsequential matters but matters that are of material importance? -- Yes.

And it is for that reason that Police Officers are given pocket-books? -- Yes.

That is provided for in your Standing Orders? -- Yes.

And you are aware of that? -- Yes.

You have given in your evidence-in-chief a number of samples of the things that you have heard said at meetings held by the African National Congress? -- That is

correct.

Would you be so good as to repeat those to us again -- "You must know that the Europeans are your enemies. I would be disappointed if I were to die from natural causes."

Are you still going on with the same speaker? -- No.

I see. Well, that is one thing: "You must know that the Europeans are your enemies"? -- Yes.

And what is the next thing? -- "I would be disappointed if I were to die from natural causes. I would like to die from a bullet by a White man."

Yes, go on? -- "We must unite and fight the laws of the White man."

You rattled these off very much more quickly you know when you gave your evidence-in-chief than you are doing now. Are you finding difficulty now in remembering? -- Yes.

You are. You had learnt those by heart just before you came into the witness box to give your evidence-in-chief, is that it? -- No, not at all.

Then why are you having difficulty now and no difficulty when you gave your evidence-in-chief? -- No reply.

What is your difficulty now? -- "The Europeans..."

What is your difficulty now is my question? -- I couldn't say.

Well, I am giving you "an out" if I may use that vulgarism. I am suggesting your difficulty now is that you weren't expecting to be asked to repeat this again whereas when you gave your evidence-in-chief you studied it up quickly before you came into the witness box. Isn't that the truth of the matter? -- No, that is not the truth of the matter.

Well, perhaps you will be so good as to tell us what the difficulty is now when you had no difficulty in chief? -- I am giving the statements that I gave in my evidence-in-chief.

Did you not a moment ago say you are having difficulty now in remembering? -- Yes.

You did say that? -- Yes.

Do you want to stick to that statement or do you want to qualify it or withdraw it? -- No, I can qualify by continuing - by giving the statements that I gave before.

All right. What else was said? -- "The Europeans are doomed. Yes, they are doomed." That was one statement.

Yes? -- "We claim - we don't only claim South Africa but the four corners of Africa".

Yes? -- "We appreciate the stand made by the teachers of the different schools except that of the Training College which is controlled by a European. She is no good to us."

That you gave later in your evidence. However, you can give it now if you like. Yes? What else? -- "This is the land of our forefathers and we must unite to regain it".

Anything else? -- No reply.

If you have finished tell us otherwise I will go on? -- Yes, that is all.

May I point out to you that on this occasion that I have asked you to repeat that which you said last time, you have left out two things that were alleged to have been said by these speakers and you have incorporated into your evidence something entirely new. Would you be surprised to hear that? -- Yes, I would be.

You would. You realise, of course, that it is a very serious statement for a person to make to the effect,

Collection: 1956 Treason Trial
Collection number: AD1812

PUBLISHER:

Publisher:- Historical Papers, The Library, University of the Witwatersrand

Location:- Johannesburg

©2011

LEGAL NOTICES:

Copyright Notice: All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

Disclaimer and Terms of Use: Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of paper documents and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.