

Duncan Village, East London ?--- That is correct.

Your husband at the moment is still in hospital ?--- Yes.

As a result of injuries he received ?--- Yes.

By shooting ?--- Yes. (5

What did your husband do for a living ?--- He was a bookkeeper and typist.

Where ?--- He worked for the different shops in Duncan Village.

Can you tell us whether he had any trouble (10 with the A.N.C. - African National Congress at all ?--- I have no knowledge of that, I heard nothing about it.

During 1962 - July - were you at home one night ?--- Yes.

Was any damage caused to your house ?--- Yes. (15

What damage was caused ?--- The window was broken.

How ?--- Apparently the window was broken with stones, we discovered stones in the house.

What time was this ?--- Between 1 and 2 in the (20 morning.

Were you in bed at that time ?--- Yes.

Who else was in the house with you ?--- Three children.

And your husband, where was he ?--- He was (25 also there.

Which window was broken ?--- The window of our bedroom was broken.

And did you actually hear it being broken, or did you just wake up in the morning and find it had been (30 broken/....

broken ?--- We were woken up immediately the window was broken, by the shattering of the glass.

Did you hear any other noise besides the shattering of the glass ?--- I did not hear anybody speaking, I did not hear anything. (5

What sort of noise was it ? A loud noise just made by glass or being made by something else as well ?--- I heard the shattering of the glass.

Is that all ?--- I heard nothing else.

You say that you found stones in the house ?--(10
Yes.

What was the cost of the damage?--- I don't remember the exact cost, but four of the window panes were broken.

Did your husband go out to see who had done (15
it ?--- He wanted to, but I advised him not to, may be these people are waiting for you outside.

He didn't go out, you didn't go out either ?--
We did not go out.

Then on the 19th August, 1963, about 6 p.m. (20
were you and your husband home ?--- Yes.

I beg your pardon 1962 - count 5. And your husband then went out ?--- Yes.

Tell us what happened ?--- He went to visit a friend of his just opposite. After my husband had left (25
the house I heard something fall in the house. It did not fall in the house, it fell outside, but I heard the thumping sound.

What sort of noise was it, a loud noise ?--- It was a loud noise. (30

Have/...

Have you ever heard a firearm being discharged ?-

No.

Have you never heard firearms being discharged ?--- No, I've never heard the sound of a gun being fired.

(5

What did you do when you heard this noise ?--- I thought it was a crowd of children playing outside, throwing stones about.

What did you do ?--- I sat there and another woman came and made a report to me to the effect that.... (10
(Mr.D'Arcy intervenes)

Never mind what she said. What did you do as a result of that report ?--- I went out to investigate and found my husband lying on the ground.

Whereabouts ?--- Lying next to the house that (15
he told me he was going to visit.

Was there anything wrong with him ?--- I went up to him M'Lord, and he asked me to help him up. I was unable to, I was not strong enough, then he told me that he had been shot. (20

Did you look to see whether he had been shot ?--- I did not look for any marks then I left in a hurry to get hold of a vehicle to take him to the hospital.

Was he taken to hospital ?--- Yes.

And he has been there ever since ?--- Yes. (25

Prior to this incident, the shooting of your husband, did you notice any slogans posted on walls in the location ?--- Yes, I noticed on the lavatory walls certain paintings, slogans.

Just look at this photograph, and tell us (30

whether/...

whether those are the slogans you saw ?--- Yes.

That will be exhibit R. Is that some of the paintings you saw on the walls?--- These are the slogans I saw on the walls.

Will you tell us what those slogans are ?--- (5
It says here: "Dukada (a few words in Xosa spoken) and it has the figure 11, which means "Dukada, you have hanged 11 people".

Do you know whether he has given evidence in any Court in which 11 people were hanged ?--- No. (10

Do you know any of the accused ?--- M'Lord, I know accused no's 1, 3 and 4 by sight, seeing them in the location.

Do you know whether your husband has ever had any trouble with them ?--- He never told me anything (15 about them.

And that slogan written on that wall, exhibit R, does that refer to your husband ?--- There is only one Sululani Dukada in the location, and that name appears here. (20

Is that person your husband ?--- Yes.

NO FURTHER QUESTIONS BY MR. D'ARCY

CROSS-EXAMINATION BY MR. WIENAND: NO QUESTIONS.

ASSESSOR: MR. BARKER.

You say this shooting of your husband, (25 happened on the 19th August, 1962 ?---Yes.

About what time was it that your husband went out to visit his friend opposite ?--- It was at about dusk but I did not look at the time when he left the house.

You say you didn't look if your husband was (30 shot/...

shot ?--- I did not examine him.

Do you know now that he was shot ?--- Yes, I do know.

-----oOo-----

MR. D'ARCY CALLS:

(5

MARY NEER: Sworn States. Speaking Xosa. (Counts 3 & 10)

EXAMINED BY MR. D'ARCY:

You live at no.164 Coote Street, Duncan Village, East London ?--- Yes.

On a certain night during July, 1962, between 10 and 11 o'clock at night, did something happen at your house ?--- Yes.

What happened ?--- A stone was thrown through the window..

Were you in the house at the time ?--- I was (15 asleep inside the house.

Did you find anything in the house ?--- I heard glass splinters falling.. The following morning I found a stone lying on the floor.

Which window was this ?--- One of the front (20 windows.

How many panes of glass were broken ?--- Only one.

Do you know who was the cause of this window being broken ? Did you see anybody throw the stone, or (25 outside the window afterwards ?--- I did not see anybody and I don't know who it was, it was already dark.

Did you keep those stones ?--- Yes, I kept them.

And you handed them to the police ?--- Yes.

Was it one stone or more than one ?--- There (30 were/....

were two stones.

Exhibit 20. Just have a look whether those were the stones ?--- Yes, these are the stones.

At about 9.30 p.m. on the 11th January, 1963, (count 10) were you in bed at that time ?--- Yes, I was (5) asleep.

What happened ?--- I heard a shot.

One shot or more than one shot ?--- Two shots, one followed the other. I knew it was a shot fired by a firearm, but I did not go to investigate. (10)

Where did these shots come from ?--- An alleyway on the side of the house.

Through the window or through the wall ?--- It came through the window.

Was the window pane damaged at all ?--- There (15) was a hole in the window about the size of a 25 cent piece.

One hole or more ?--- Only one hole.

Were there any marks inside the house ?--- There was a small hole in the wall.

CLOETE J: Was that made by the bullet which came through (20) the window ?--- Yes, made by this shot.

MR. D'ARCY: About 7 a.m. the following morning, were you present when Bantu sergeant Dyomfana came to your house ?--- I was there.

Did he find something ?--- He found a live (25) cartridge.

Where was that ?--- In front of the front door.

That is part of exhibit 7 ?--- Yes.

Was anything else found there besides that bullet ?--- Outside we found two expended cartridges. (30)

I show you two cartridge cases and two bullets ?--- These two cartridge cases are the two that I found.

Where did you find them ?--- Below the window.

On the outside ?--- Yes. (5

That is also part of exhibit 7. And the bullet heads ?--- One was found by sergeant Card in the house, the following week I found the other one inside the house.

How long after this night when the shots were fired, did you find the other one in the house ?--- The (10 shots were fired on a Friday, while cleaning the house the following week on the Friday I found this bullet.

Do you know how many shots were fired during that week ?---No shots were fired again sir.

You reported this to the police and you (15 pointed out various spots to them ?--- Yes.

The bed on which you were lying ?--- Yes.

And the hole in the wall ?--- Yes.

Anything else ?--- Yes, I pointed out the window. '20

Where the shots were fired, could he see where you were lying in bed ?--- He could not see my bed.

Do you know Joe Matoti ?---Yes.

Is he a friend of yours ?--- Yes.

Does he often visit your house ?--- He visits (25 it very often sir.

Were you ever a member of the African National Congress ?--- I was.

When were you a member ?--- When the organisation started in 1952. When the organisation was declared a (30

banned/.....

banned organisation I ceased being a member.

When was that ?--- That was about the middle of 1952.

You ceased to be a member ?--- Yes.

Did you have anything to do with the organisation
after 1952 ?--- I never took any further part in it. (5.

Do you know the accused, or any of them ?--- I know
accused no.'s 1,2,3 and 4. I do not know no.5.

Where do you know them from ?--- When I first joined
the organisation I met them.

Was no.1 a member of the organisation ?--- The (10
African National Congress ?--- Yes, he was.

Do you know whether he is still a member ?--- I
don't know whether he is still a member or not.

Accused no.2 ?--- The same applies to no.2 as applies
to no.1. (15

No.3 ?---The same applies to him also.

No.4 ?--- I've only known accused no.4 since we
were arrested. I realised then that he was also - I have
known him since this shooting incident in 1962 and 1963 -
these incidents I should say. (20

How did you get to know him ?--- When these
incidents took place I saw accused no.4 in the company of
the others.

Who were the others ?--- Accused no's 1,2 and 3.

Did you talk to them at all ?--- We were on speaking(25
terms then.

Did you ever discuss this shooting incident ?--- When
the shooting incident took place we were no longer on
speaking terms.

Why was that ?--- Because accused no.1 repeatedly (30
came/.....

came to us and asked us to continue with the organisation. But we refused to.

Who is "we" ?--- I mean myself.

Tell us when he came, what year, what month ?---The last time he came to me M'Lord, was just before this (5
throwing of the stones incident.

That's July, 1962 ?--- Shortly before that, the month immediately preceding that.

What did he say to you ?--- He wanted me to continue with this organisation of theirs and I refused. (10

Did he tell you whether he was continuing with the organisation ?--- It was obvious.

He didn't tell you ?--- I took it - (a few words indistinct) because he asked me to continue with the organisation as well. (15

CLOETE J: Did he seem to be enthusiastic about the organisation ?--- Yes.

And that he was anxious to get you to be a member, to get support to get the organisation to work ?--- Yes.

MR. D'ARCY: What did you tell him ?--- I said I cannot. (20
The organisation has been banned.

What did he say to that ?--- He said that the organisation was continuing underground. I still refused saying that it would be found out. After that this stone throwing incident took place. (25

Did he come and see you on one occasion only or on more than one occasion ?--- He came to see me at different intervals, but he did not come often, or regularly.

On the other intervals that he came, what did he come and see you about ?--- He said to me that they were still (30

continuing/..

continuing the organisation and he wanted me to continue with them.

Each time you refused ?--- Yes.

Did he say anything else apart from asking you to join the organisation or to carry on with this organisation ?--- I did not give him an opportunity to say anything else M'Lord, because I refused every time. He mentioned it. (5)

On this evening when the shooting incident took place, did you see anybody outside your house ?--- At about 7.30 p.m. I did see people outside. (10)

Who were they ?--- Attwell Msauli, Mzwandile Mandla, these two I mentioned were walking together and three others were following them at a short distance behind them.

Were they just walking past your house, or did they stand around ?--- On this particular occasion I was on the verandah when these people came out of the alleyway below my house. (15)

At the side of your house ?--- Yes.

Did you speak to them at all ?---No, I did not. (20)

What did they do ?--- When Attwell Msauli noticed that I had seen him he turned around, Mzwandile was standing at a distance lower down.

Did these two men walk away ?--- Yes.

Did they say anything to you ?---No. (25)

When you saw these men there, what did you do ?--- I went outside and watched them. On the corner the five of them all met sir, and they stood there. At that stage two Bantu policemen appeared, one was instructing the other for guard duty which was to be performed there that night. (30)

At/....

At your house ?--- Yes.

Yes ?--- I was asked if anything untoward had taken place. I told them what I had just seen and suggested that they might find them if they followed them.

Did you report to the police that you had seen these (5 men ?--- Yes, while I was standing outside there, I told them about them.

Where were these men then ?--- They had disappeared around the corner at that stage.

Was there anything particular about their behaviour (10 which made you report this incident ?--- I became suspicious of Attwell Msauli's movements, the way he moved to the side of the house and as soon as he saw me there he walked off again.

NO FURTHER QUESTIONS BY MR. D'ARCY.

(15

XXD. MR. WIENAND:

You say that Matoti is a great friend of yours ?--- Yes.

Are you related to him ?--- No.

He frequently visits you ?--- Yes.

(20

He is your lover isn't he ?--- No.

There is just a platonic friendship between the two of you ?--- Yes.

He comes there at any time of the day or night ?--- When he goes to work he goes past my house and when he (25 comes back from work he goes past my house.

Did he ever sleep there ?--- He has never slept there.

Are you married ?--- Yes. My husband's name is Pope Neer.

Does he live with you ?--- No, we are divorced. (30

You/....

You are not married, you have got a lover ?--- I used to have a lover, not any more.

Matongwana ?---Yes.

So you say you were a member of the A.N.C. in 1952 ?---
Yes. (5

And you resigned that same year ?---After it was declared banned.

That same year ?--- It was officially banned during 1960, but it was after these riots in 1952.

You resigned - you said in your evidence-in-chief - (10
you resigned in the middle of 1952 ?--- After those riots I resigned.

In the middle of 1952 or not ? In your evidence-in-chief you said you resigned in the middle of 1952 ?---After the riots sir. (15

CLOETE J: Is that after the riots when one of the nuns there was killed ?--- Yes.

MR. WIENAND: I still want to know from you whether that was in the middle of 1952 ?--- If I remember correctly the riots were in November of 1952. (20

I still want to know from you. You said in your evidence-in-chief that you resigned in the middle of 1952, is that still so or do you wish to change your story now ?--- I say it is in the middle of the year because it was after the riots. (25

So you were a member for approximately 6 months ?---
When the African National Congress commenced in 1952, since then.

So you were a member for approximately 6 months ?--- Yes, I would say so. (30

And/....

And you say it was during that period that you knew some of the accused ?--- I knew these men before that, but we worked together during this period.

You knew them as members of A.N.C. ?---Yes.

Who are they ?--- No.1, 2 and 3. (5

No. no.4 or no.5 ?--- I first realised that accused no.4 was involved with them, when this shooting incident took place because he was always with them.

You saw accused no.4 with them, but you yourself didn't know whether he was a member of A.N.C. or not ?-- (10 I did not - I was not sure of him M'Lord, but I was sure when the shooting incident took place that he was.

How did you establish that he was a member of A.N.C. then ?--- Because when this shooting incident took place, he was always together with them, if he was not a member (15 of A.N.C. he would not go around with them.

CLOETE J: What you mean is that you had a strong suspicion he was a member of the A.N.C. but you had no definite proof ?--- I was suspicious of him M'Lord, but became certain that he was when the shooting incident took place.(20

How did you become certain that he was a member because of the shooting ?--- He was arrested together with them when they were arrested.

MR. WIENAND: Regarding accused no.2, you say that you worked together with him in 1953 whilst you were still a member (25 of the A.N.C. ?--- He was a member.

Are you quite sure of that ?--- Yes. I am sure he was a member.

In 1953 ?--- Yes, 1953.

I put it to you that accused no.2 only arrived in (30

East/....

East London in 1957 ?---M'Lord, when accused no.1 came to visit me, on the occasions I have related, accused no.2 was with him and I took it that he was a member of the organisation since it started. I cannot say that he definitely was. (5

How can you say a thing like that ? A moment ago you said in 1953 he was a member ?--- He told me himself that he had been a member for a long time.

And because you say he told you he had been a member for a long time you come and tell this Court that he was (10 a member in 1953 ? Where do you get that from ?---I could not dispute what he had said to me sir, about when he joined.

You just guessed that he was a member in 1953 ?--- He told me that he had been a member of the organisation since it started. (15

That wasn't what you told us a moment ago. You said that he told you he had been a member for a long time, now you say since it started ?--- I am (two words indistinct) to say so, that is what he told me, I could not argue with him about it. (20

You now suggest that he told you he was a member since 1953 ?--- When they came to visit me they told me that they had come to organise the people.

Do you now suggest that he told you that he was a member since 1953, please ?--- That's what he said. (25

He said so ?--- Yes, he said so himself, I could not dispute that, I could not argue with him.

It wasn't because you yourself saw that he was a member and that you worked with him in 1953 ?--- M'Lord, I could not dispute him, it is possible, because all public(30 meetings/....

meetings were banned after those riots in East London. If a person told you himself that he had been a member at that stage you could not argue with him.

I understood you to say in your evidence-in-chief that he was a member since 1953 and that you had worked (5 with him ?--- I still say so because he said so himself that he took part in it.

CLOETE J: The question is, did you work with him as a member in 1953 ?--- The reason why I say we worked together is because he told me that he worked for the organisation(10 at that time, that is why I say we worked together.

MR. WIENAND: So if accused no.5 came and told you that he worked with you in 1953, you will say that you actually worked with him in 1953 ?--- If he told me that himself I cannot argue with him. (15

Were you a very active member during those some 6 months odd ?--- I worked for the organisation.

Were you an active organiser ?--- I worked for the organisation.

Were you on the committee ?--- (Mr. Wienand adds) (20 Organising committee, or organiser ?--- No, I was never on any committee.

What did you do then ?--- Performed the ordinary duties of a member of the organisation.

CLOETE J: What are they, that is what we want to know ?-(25 Just a member sir.

What are they ? Did you go out and get new members, and collect subscriptions or try and persuade people to join ?--- At that stage there was nothing unlawful about it and nothing had happened. I did try to recruit other (30 people/....

people.

That's right. We know there was nothing wrong about it then. It wasn't banned yet .

MR. WIENAND: So you went around and you recruited other people to become members, is that right ?--- Yes. (5

At that stage this organisation, did each and every member act as a recruiting officer ?--- If I recruited anybody I would report the matter that I had recruited so-and-so.

Just listen to the question. If you don't understand(10 it say so. Did each and every member act as a recruiting officer at that stage ?--- Yes.

There were no special recruiting officers ?--- No. Not as far as the females were concerned, I don't know what happened in the male section. (15

Why did the accused no.1, as you say, come to you and ask you to continue your work in the organisation ?--- Because he knew that I was a member together with him at that stage.

Yes, I put it to you at that stage there were a lot (20 of members, weren't there ?--- There were a number of members at that stage.

And he kept on pestering you ?---I cannot say that he only came to me alone.

He came on numerous occasions and asked you to (25 continue the good work ?--- M'Lord, I don't mean that he came very often to me, what I mean is that he did come to see me on several occasions.

Throughout a period of years ?--- Sometimes the intervals would be more than a year. (30

Would/...

Would that be over the period from 1953 to 1963 ?---
Yes.

In regard to this shooting incident, you say you saw
people outside ?--- Yes.

You mentioned Msauli and Mzwandile ?--- Yes. (5

Do you know any of the others ?--- I did not take
notice of the others, they were walking on.

Why did you take particular notice of those two ?---
Because Msauli came and stopped right in front of my
door, and when he noticed that I had seen him, he walked (10
away.

Was he alone when he stopped in front of your door ?---
M'Lord, Msauli and Mandla were walking together. Mandla
walked on, Msauli stopped for a second or two and then he
walked on and three followed them. (15

AT THIS STAGE MR. WIENAND APPLIES FOR A SHORT ADJOURNMENT
IN ORDER TO CONSULT HIS CLIENTS.

APPLICATION GRANTED - COURT ADJOURNS.

-----oOo-----

ON RESUMPTION: (20

MARY NEER: (Still under oath)

MR. WIENAND: I understand that the African National
Congress, also had a Women's League ?--- I do not know
anything about that.

I put it to you that it did exist and that you were (25
the President ?--- I have no knowledge of ever being
President of this section.

Have you ever been to Pietermaritzburg ?--- I did.

You went there as a representative of East London,
you were a delegate ?--- The reason why I went to Durban (30
was/....

was was to see how a conference was run. I had never attended one.

We are not talking about Durban, you admitted that you've been to 'Maritzburg before. Now confine yourself to 'Maritzburg. I say you went to Pietermaritzburg (5 as a delegate from East London ?--- At that stage I told them that I could not go to Pietermaritzburg as a delegate because public meetings had already been banned.

So you were actually approached to be a delegate ?-- No, I went there at my own expense. (10

CLOETE J: What for ?--- I went to see how a conference was organised, how it was run.

What conference did you go to ?--- An African National Congress conference.

Did you stay there all the time ?--- The conference (15 had not yet been closed when I returned sir.

Did you go to all the meetings that you could while you were there ?--- I attended all meetings while I was there.

Did you speak ?---No.

Did you speak to the other delegates who were (20 there ?--- We had general conversation yes.

Did you try to find out all about the A.N.C. and its aims and objects ?--- Yes, because it was the first time I had ever attended such a conference.

Was that in order to enable yourself to go and (25 organise when you got home ?--- No, I just went there to see what this conference was like.

Did you go and see what a conference was like so as to be able to help the African National Congress ?--- The only reason why I went M'Lord, was to see how a conference(30

is/...

is run.

MR. WIENAND: Did this question of you being a delegate ever arise ?--- No.

Well then who did you tell that you couldn't be a delegate because it was banned ?--- I told accused no.1 (5
on my return the only reason why I went to the conference was to see how it was run.

Who did you tell that you couldn't be a delegate because the organisation was banned ?--- I said that to accused no.1 when he asked me on my return. (10

You couldn't possibly be a delegate once the conference is over ?--- I was not a delegate there sir.

Was this question of a delegate discussed at all after you returned from this conference ?--- When I returned from the conference he wanted me to continue (15
working for the organisation.

What did that have to do with being a delegate to the conference ?--- It has nothing to do with it because I was not a delegate.

CLOETE J: Let's put it this way. Did anybody ask you (20
to be a delegate to the conference at Pietermaritzburg or at Durban ?--- Nobody in East London did.

Did anybody anywhere else ask you to be a delegate ?--
No.

Who told you about this conference in Pietermaritz- (25
burg or Durban ?--- I knew there was going to be a conference there.

How did you know you would be allowed to go to that conference if you were not a delegate ?--- The conference had not yet been banned at that stage. It was after that (30

that/....

that they were banned.

That's not what I am talking about. When you have a conference you have delegates that go to the conference ?---

(Judge adds) At some conferences they are not open to everybody, everybody can't just go unless they are delegates ?--- (Judge adds) What I want to know is, how did you know that you would be allowed into that conference, by the conference people if you were not a delegate ?--- I knew that I could attend the conference. (5

Was it held in public ? Was everybody allowed to go ?---According to my knowledge, anybody was allowed to attend. (10

The doors were open and everybody was allowed in ?--- The doors were open to everybody.

MR. WIENAND: Who was the President of that Women's League, whilst you were a member ?--- There was no President. I have already said so. (15

Do you also wish to say there was no Women's League ?--- At that stage M'Lord, I knew of no Women's League at all.

At what stage did you know then ?--- I didn't ever hear that there was a Women's League. (20

CLOETE J: Have you heard of that today for the first time ?--- I cannot say today is the first time I have heard of it, but I knew of no such League.

MR. WIENAND: Have you heard of it before ?--- Since my resignation I don't know if there has been a Women's League or not. (25

Have you heard of it before ?--- While I was a member there was no Women's League.

This conference took place in 1959 ?--- It might have been/.... (30

been 1958, I am not sure.

Could it have been 1958 or 1959 ?---Yes.

What were you doing there if you weren't a member after 1953 ?--- Conferences had not yet been banned at that stage and it was my own curiosity, I wanted to see (5 what a conference was like.

CLOETE J: And how did you get there ?--- By motor car.

Did you pay your expenses ?--- Yes.

There and back ?--- Yes.

And you went specially there just for this conference (10 and for no other purpose ?--- For years I had been wanting to know what a conference was like that is why I went.

MR. WIENAND: You see, I don't understand you. I have a note here which is your evidence-in-chief, in which you say "I was a member of A.N.C. when it was started in (15 1952, and when it was declared banned I ceased being a member in the middle of 1952" ?---I still say so. But I wanted to see what a conference was held like.

And then you tell the Court in 1958 it wasn't banned ?--- Public meetings were banned but not conferences. (20

CLOETE J: Isn't a conference a public meeting ?--- Conferences had not been banned at that stage in 1958.

MR. WIENAND: Did you say that you went alone to this conference ?--- No.

But you paid your own expenses ?--- Yes. (25

Did Tyikwe go with you ?---Yes, he did sir.

And Mbidlana ?---Yes, he did.

And Komani ?--- Yes.

Three men were they ?--- Yes.

They were delegates ?--- Yes, they were delegates. (30

And/...

And they were paid by A.N.C. funds ?--- I don't know whether they went at their own expense or at the expense of the organisation.

Accused no.1 says that he never went to see you to try to persuade you to continue in this organisation ?--- (5
He knows that he did, he lives there nearby.

He says the reason why you implicate him is because you are a great friend of Matoti ?---That is not correct. My association with Matoti has got nothing to do with that.

He says it is because Matoti and Gwenshe had (10
clashed and he was a friend of Gwenshe ?--- That is correct. Because he said anybody who associated with me or Matoti, Matoti must pay for it, must fight with Matoti, must fight with anybody who spoke to Matoti.

I put it to you before, accused no.2 only came to (15
East London in 1957 and that is when he joined the A.N.C. ?- That may be so, but he told me different, I can't argue with what he told me.

Do you know whether - did you see him at all in
1960 ?---I saw him around in the location. (20

In 1960 ?--- Yes.

During the months of April, May and June ?--- He was arrested during that period.

When was he arrested ?---During 1960.

What month ?--- I cannot say what month. (25

I put three months to you, April, May and June, you say that was the period when he was arrested, when was he arrested ? In April, May or June ?--- I don't remember.

Accused no.3, he says that he joined the A.N.C. in
1954, not in 1953 as you say ?--- He was always together (30
with/....

with accused no.1. I don't know at exactly what stage he joined, but at that time he was always together with accused no.1.

So you don't know exactly when he joined, you say you don't know what year he joined ?--- I never asked (5 them at what stage they joined.

But you told the Court they joined in 1953 ?--- They were the ones who told me that, I cannot argue with them.

They all told you that they joined in 1953, is that your story ?--- I cannot say when they joined, they did (10 not say exactly when they joined, but they said they had been members for a long time.

You are going back on your original story ?--- I am not going back on my original story, I am telling the Court what they told me. I cannot argue with what they (15 say.

I put it to you that you resigned in 1960 ?--- I did not. At that stage I had already resigned. I did attend this conference though.

And I put it to you that you worked with accused (20 no.3 up until 1960 when you resigned ?--- I never said that I worked until 1960.

CLOETE J: Did you work on African National Congress work with accused no.3 until 1960, that's the question ?--- I had already resigned. (25

NO FURTHER QUESTIONS BY MR. WIENAND;

AT THIS STAGE COURT TAKES THE LUNCH ADJOURNMENT.

-----oOo-----

ON/...

ON RESUMPTION:

MARY NEER: (Still under oath).

RE-EXAMINATION BY MR. D'ARCY:

You told the Court that you resigned when the organisation was banned ?--- Yes.. (5)

And you said that was in 1952 ?--- Yes.

For how long were these meetings of this organisation banned in 1952 ?.

CLOETE J: Isn't that a matter of law ?.. Was it banned by proclamation, by government notice ?.. (10)

MR. D'ARCY: There was a state of emergency. I don't know whether I'll be able to find that.. I thought I might just clear that up.....(Court intervenes).

CLOETE J: You can clear it up, I just thought it was quicker to refer to the notice.. (15)

MR. D'ARCY: For how long was this organisation banned for in 1952, can you tell us ?--- We were not told for how long it would be banned sir.

CLOETE J: In fact, for how long was it banned ?--- We were not told how long it was banned for. (20)

I have an idea it was 6 months. That can be referred to. This was following upon the riots in 1952, when that nun was murdered ?.

MR. D'ARCY: That's right ?--- It was banned shortly after the rioting in East London when that nun was killed. (25)

CLOETE J: It wasn't the organisation that was banned, they banned all public meetings ?--- Meetings were banned.

MR. D'ARCY: The African National Congress was banned in 1960 ?--- Conferences were banned in 1960. (30)

CLOETE J: /...

CLOETE J: Do you know that the African National Congress was declared an illegal organisation at some time ?---

Yes, that is correct.

When was that ?--- Just after the riots of 1952.

We are talking about when they said you could no longer be a member of the African National Congress and that one is not allowed to have that organisation at all ?--- When (one word indistinct) public meetings were banned in 1952, I took it that the organisation and everything was banned as from then. (10

-----oOo-----

MR. D'ARCY CALLS: (On Counts 4 and 7).

DICKSON MATU DYANI: Sworn States.

EXAMINED BY MR. D'ARCY:

You reside at no.651 Main Street, Duncan Village, East London ?---Yes. (15

And you are Secretary of the School Board in Duncan Village ?---Yes.

When were you appointed ?--- During 1955. Before that I was a teacher. (20

And are you still Secretary of the School Board ?--- Yes.

And you told us you live at no.651 Main Street, Duncan Village ?--- Yes.

Do you remember a certain night in July, 1962, were you asleep in your house ?--- Yes. (25

What happened that night ?--- I was woken up by stones being thrown through the window of my house.

Which window ?--- My bedroom.

Were you asleep ?---Yes. (30

What did you find when you woke up ?--- I found four stones on the floor.

Were any of the window panes broken ?--- I think about four window panes were broken.

Did you go and try and see who had done this ?--- (5
I went out yes.

What did you see ?--- On the one side of my house that I looked on I did not see anybody, on the northern side of the house I went around there and I saw two persons but could not recognise them. (10

What were these persons doing ?---They were running into an alleyway.

From the direction of the front of your house - from the direction of your bedroom window ?--- Yes, from the front of the house. (15

Was any other damage caused apart from these four window panes ?--- I found two spots where stones had been thrown against the wall, causing slight damage to the wall.

Were these stones inside or outside the house ?--- They were on the front verandah. (20

Is that near where the window is ?--- No, on another side of the house.

The window frames of your bedroom window, were they damaged at all ?--- At the joints of the window frame, it was broken. (25

Was any damage caused to anything inside the house ?--- No.

On the night of the 17th November, 1962, you retired to bed at about 9 p.m. ?--- I cannot remember the exact (30
time/...

time.

CLOETE J: About 9 o'clock, the usual time ?--- Yes.

MR. D'ARCY: The following morning you received a report, on the 18th November, somebody made a report to you ?--- I don't remember the date but there was a person, a (5 young boy came to make a report to me one morning.

Did you go and inspect the outside of your house ?--- Yes.

What did you see ?--- I found a broken bottle on the verandah. There was a small piece of rag with the broken (10 bottle.

Did you find anything else ?--- There was a cork there as well and it appeared as if something had spilt out of this bottle.

Did this substance which had been spilt out of the (15 bottle have any particular smell or didn't you notice ?--- Yes, a slight smell of petrol.

Anything else ?--- No.

Was there anything to suggest that a fire had been applied to these objects which you picked up there ?--- (20 I did not examine that closely.

CLOETE J: Did it look as if any part of this bottle had been burnt ?---(Court adds) Or the rag or the cork ?--- I did not notice anything that might have been singed or burnt. (25

MR. D'ARCY: Did you subsequently hand it to the police ?--- I summoned the police who took possession of the objects themselves.

CLOETE J: Apart from the stains from the liquid that you saw there, was there any sand lying there which had not (30 been/....

been lying there before ?--- I did not notice any sand there.

MR. D'ARCY: Do you see exhibit 15, ?---Yes, they were similar to this.

Was there just the one bottle there or the one (5
bottle top or were there more than one ?--- Only the one.

Do you know that certain slogans were painted on walls of lavatories and other places in the location ?--- Yes, I saw one.

I show you two photographs ?---I see the exhibits. (10
Exhibits S. and Y. What does exhibit S. say ?---
Exhibit S. M'Lord, the words here are (Interpreter reads short portion in Xosa) which means "Dickson Dyani you have an account with the people".

And the other one ?--- Only portion of this is (15
legible M'Lord, (Interpreter reads short portion in Xosa) which means "Dickson Dyani, these things that you are doing to people, leave it alone". That is all that is legible.

Who is the Dickson Dyani referred to ?--- Me, sir.

What do those relate to, do you know ? What had (20
you done ?--- I have no idea, I have never done anything wrong to a person.

Can you remember when about you saw those slogans ?---
It was during May of 1962. There were many slogans painted up. (25

CLOETE J: Did they all deal with you ?--- Many of them referred to me.

Were they the same kind of slogans ?--- They were not all the same, but meant almost the same thing. They were written in different - it was different wording. (30

Yes/....

Yes, that's what I mean, but they all had the same idea behind them ?--- Yes.

Half threatening towards you ?--- Yes.

MR.D'ARCY: Did anybody ever speak to you about those slogans ?--- What type of person do you mean ?. (5

A human being, anybody ?--- Only the police, the people whom I made the report to.

You reported this to the police ?--- Yes.

Do you know the accused or any one of them ?--- I know all five of them. (10

Accused no.1. Have you ever had any trouble with him ?--- I have never had any trouble with any of them.

Do you know anything about the African National Congress ?--- I know that it is in existence, but the members of the organisation I do not know. (15

Were you ever a member of this organisation ?--- Never.

NO FURTHER QUESTIONS BY MR.D'ARCY.

CROSS-EXAMINED BY MR.WIENAND: NO QUESTIONS.

-----oOo-----

MR.D'ARCY CALLS: (On Count 9.) (20

INKIE DOMBOTI HOYI: Sworn States.

EXAMINED BY MR.D'ARCY:

You live at no.774 Kwinana Street, Duncan Village, East London ?--- Yes.

And you are a representative of the Rarabe tribe (25 under Chief Archibald Sandile ?--- Yes. (Mr.Interpreter: The witness states that at the time he was the representative of Chief Sandile. Since this incident he is no longer).

When was he appointed a representative of Chief Sandile ?--- On the 9th December, 1962. (30

Is/....

Is that when you were appointed ?--- Yes. But I was a representative before this too.

You were re-elected in December, 1962 ?---That is right.

When were you first elected ?--- I cannot remember (5 the exact date, it was during 1950 though.

When did you relinquish this appointment ?--- In 1950 this position that I held then was not recognised by the authorities and during 1962, the Government ordered that the representative be nominated under the names forwarded (10 for urban areas that is, that was when I was nominated on the 9th December, 1962.

CLOETE J: When did you give it up, that's the point ?--- I am not positively certain, I think it was November, 1963, and that is as a result of what took place. (15

MR.D'ARCY: What took place on the 15th December ?--- Yes.

After you were proposed at this meeting, or elected at this meeting on the 9th December, did anybody criticise or threaten or say anything about your appointment ?--- Yes. (20

Who ?--- Accused no.3.

No, it is not no.3.

CLOETE:J: Let them all stand up. Is it any one of those ?--- No.3 and 4.

MR.D'ARCY: What did they say ?--- They said that they (25 were not in agreement with the Government policy, referring to the Bantu authorities and self-government.

CLOETE J: What self-government ?--- Transkei self-government. And they also said that during 1960, I said and it was published in the papers, that the Transkeian people were (30

not/.....

not yet ready for self-government, and I was also supposed to have said that they would not be ready for the next 25 years, and they alleged that I was a traitor sir. And that I was selling them out. There was a meeting held before my nomination to this post. Quite a number (5 of them came to this meeting and said that we must close the meeting.

MR. D'ARCY: I want to know what these two men, you said these two men came and spoke to you, I want to know what they said to you after you had been nominated?--- They (10 said they did not want me as a representative, because I was a "sell-out", and they also threatened my life, saying that I would die.

They said you would die. Who said that?--- Accused no.3 and no.4. (15

Did they say anything else on that occasion?--- They said the police should take me and put me into a van and take me into town because I considered myself a European and that I must go and live amongst the Europeans, and I must not live amongst them. (20

Was this the first time you received any threats in connection with your position as a representative of Chief Archibald Sandile?--- I have been threatened many times M'Lord, but I am afraid I cannot remember the dates, and on one occasion we were at a meeting held in a hall (25 at St. Phillips, that was during September, we were preparing to go and see Chief Matanzima.

Which year?--- 1962. They also said that we could not hold a meeting.

CLOETE J: Who said that?--- Accused no.3 and no.4. They (30 said/...

said we should not hold meetings in support of Chief Matanzima. Others who also said this are not present today. I don't know if I should mention the names of those people now.

MR.D'ARCY: No. Now as a result of these threats, did (5 you take any steps to safeguard your position ?--- I reported this matter to the chief of the police station at Cambridge, and he assured me that police would patrol that area.

Were policeman in fact placed in the vicinity of (10 your house from October, 1962 ?--- Yes, there was a policeman on duty there every night.

At about 11.30 p.m. on the 15th December, 1962, you retired to bed, is that correct ?--- Yes.

All the windows of your house were closed ?---Yes. (15

Were the doors closed, or were they partially open ?-- Both kitchen doors were closed and the door to my bedroom was closed and another bedroom next to my room was also closed. The front door consists of two half doors, the lower portion was closed, the reason for this was that the (20 policeman who was on duty said I must not close it because he wished to leave his tunic and his helmet inside the house. He was seated in front of the door.

Who occupied the house ?--- Those occupying the house were myself and my two daughters, Linda and Daphne. (25 Daphne was not my own daughter, but she is my younger brother's daughter.

How old are these children ?--- Linda was 10, Daphne was 14.

What happened during the course of the night ?--- (30

While/....

While lying there I heard a thud on the floor, I was asleep, this woke me up. Again I heard another thud. I got up as a result of it. The second thud I had woken up properly when I heard that. My blankets were burning and I smelt the smell of petrol. The bed on which the children(5) were sleeping was covered in flames, and the room was full of smoke.

What did you do ?--- I got up and tried to open the door, and I shouted "open the door! ", still thinking that the policeman might be outside, and I tried to get the (10) children away from the flames. I was unable to extinguish the flames because they were burning strong. The room was a mass of flames and there were clothes hanging behind the door. I was lucky enough to be able to open the door sustaining burns to my hands though and to my upper lip. (15) My feet as well. I managed to get the children out. The clothes that the children were wearing had already burnt out and the children were bleeding. My next door neighbour Mr.Mati came to my assistance. When I got to the front door I discovered that both top and bottom sections were open. (20) Mr.Mati, my next door neighbour assisted me in getting the children out and took them to his room. I would like to add that shortly after coming out of my bedroom the policeman came in, that's when I got into the front room, and he tried to blow his whistle. I said to him: "it is no good (25) now, it is too late, I have been calling you for a long time. CLOETE J: Who was he ?--- Nthoko. I do not know what his Christian name is.

MR.D'ARCY: Oliver Cromwell Nthoko ?---Yes. The policeman who was guarding Tonjeni's property came running down. I (30) asked/....

asked him if he had come as a result of hearing the whistle being blown. He said "no". He said "I saw the flames", and he ran towards them. He was the one who ran to summon the ambulance and the police.

Did you ascertain what had caused this fire ?--- I (5
was able to recognise the smell of petrol but there was also a strange smell, I cannot tell what it was, I don't know what it was.

Do you see - did you see any bits of glass there, bottles ?--- I saw pieces of bottles wrapped up in rags. (10

These were all pointed out to the police later on and took possession of them ?--- Yes, they were taken by the police, and these bottles were cracked. Sergeant Card was the man who told me that it was a petrol bomb.

CLOETE J: Was your whole house burnt down ?---The house (15
did not burn down, but all the clothing etc. inside the room burnt out.

The contents ?--- Yes.

MR.D'ARCY: Your bed was damaged ?--- Yes.

Your mattress ?--- Yes. (20

Dressing table ?--- Yes.

Five blankets ?--- Yes.

Four sheets ?---Yes.

Four pillows, a pair of shoes, a pair of slippers and a lot of clothing ?--- Yes. (25

What is the value of your property which was damaged ?-
About R120-00, that is what I valued it at.

You went to hospital for treatment ?--- Yes.

And the two girls ?--- Mati and the two children were taken to hospital by the ambulance. (30

Mati/....

Mati as well ?--- He assisted in loading the children into the ambulance and accompanied them to the hospital. I was taken by police vehicle.

Have these children recovered ?--- One of the children died 6 days later, the other one recovered. (5)

Which one died ?--- Daphne.

Were petrol bombs the only things that were thrown into your house that night, or was some other weapon used?--- The Sunday morning at about 11 a.m. Mati brought an object to me and asked me what it was. I told him it was a bullet. (10)

Did you hear anything that night like a firearm being discharged ?--- I heard these thudding sounds as well as what sounded like a gunshot.

At what stage did you hear the noise that sounded like a gunshot ?--- Shortly after I woke up. I was not fully awake yet. I was up and about though inside the room amongst the flames. (15)

When you heard a noise ?--- Yes.

Was that the only time that you heard a bullet - the sound of a firearm being discharged ?--- (Mr.D'Arcy adds) (20) At your house ?--- It is the first time I have ever heard the sound of a gunshot in my area where I live.

Did you see any holes in the walls ?--- There was a hole in the wall about 6 inches below the window sill. I pointed this out to sergeant Card and this bullet was picked up closeby. (25)

Did you point out anything else ?--- Mr.Mati - in Mr.Mati's possession was found an expended cartridge. I beg your pardon, he found it himself, he picked it up himself.

What did he pick up ?--- An expended cartridge. (30)

Cartridge/...

Cartridge case.

This hole in the wall, had it been there prior to this night ?---No.

When did you see it ? . How soon after the 15th December did you see it ?--- Following day. (5

(One question not recorded)-- This bullet was actually found by my wife while cleaning up the room. I asked her where she picked it up and she told me.

Never mind what she told you. You haven't seen it there before ?--- No, I did not, when I returned from hospital I stayed in that house. (10

Do you know how long after the night of the 15th December, you saw this hole ?--- The following day after this incident.

Was that when you saw the hole ?---Yes. (15

NO FURTHER QUESTIONS BY MR.D'ARCY.

CROSS-EXAMINED BY MR.WIENAND:

I understood you to say that as a result of what took place you were suspended or you retired as the representative of Sandile ?--- That is correct. (20

Do you know why ?--- When nominations were made it was said that anybody who gets involved with the police or has anything to do with Europeans, we do not want him as a representative. It was Government policy.

In other words, what you mean is if he is a Government policy supporter, they didn't want him ?--- Yes. (25

When you say as a result of what took place, what are you referring to, or took place on the 15th December, 1962 ?--- It is just what I told the Court, about the throwing of petrol bombs and shooting. (30

CLOETE J: You mean because there was a petrol bomb thrown into your house and you say a shot was fired at the house, you then resigned as the representative, you could no longer be a representative ?--- I did not resign myself, I was just told that they do not want me any more. (5)

Who told you that ?--- People who nominated me said if there was a meeting held afterwards they said they did not want me any longer as their representative. It was a meeting held after this one.

Did they tell you why they did not want you ?--- (10)
Because of having been a Government supporter, and a friend of the Europeans.

MR.WIENAND: Was there a meeting held after this bomb throwing incident ?--- Yes.

And it was at this meeting that they told you they (15)
no longer wanted you ?--- Yes.

At no stage before that was there a meeting held at which they told you that you should not - they no longer wanted you ?--- I have already explained that even before this because I was a supporter of the Government policy (20)
I was not wanted as a representative.

Let's put it this way. It was only as a result of the force shown on this night that you really resigned, not because you were asked to resign ?--- I must repeat that I did not resign on my own. (25)

You were kicked out then ?--- Yes, because of the reasons I have already explained.

I want to know why you did not relinquish the position before the attack ?--- I liked the position I had. I liked working for that sort of thing. (30)

You/.

You were told by the people that they didn't want you, prior to this incident ?--- I have already said that those people who said that were accused 3 and 4 and others.

Many others ?--- Yes. At meetings that were held at the Chief's place, there were people present there who (5 took no interest, who did not want to have anything to do with it. At meetings held at the Chief's place, these people did not care about anything that was discussed there and it was only when we held meetings for them that they raised objections, that they opposed it. (10

Did you know accused no's 3 and 4 well ?--- I know them well.

How long have you known them ?--- A long time.

How long ?--- I knew these people already by 1959.

Did you know them before 1959 ?--- I knew them (15 before that but never took any interest in them.

Did you know accused no.4 in 1959 ?--- I cannot say. The question has been asked me, I am asked to tell the Court what year it was, I cannot do that because I never took sufficient interest. All I am trying to tell the Court is (20 when they caused us trouble in our affairs.

You told us that you - you led the Court to believe that from 1959 onwards it is then when you started taking an interest in the two accused, prior to that you'd seen them, isn't that so ?--- What I am trying to tell you is (25 that I cannot tell the Court how long I have known these people, but I am being forced by Counsel for dates, I can't.

I didn't force you, you told the Court ?. You told the Court that you took an interest in them from 1959 (30 onwards/....

onwards ?---Because of the questions put by you sir, I am telling the truth, I cannot tell dates exactly. I have tried to explain to the Court that I got to know them when they began to cause trouble in our affairs.

Did you or did you not know them in 1959 ?--- I (5 cannot be definite about 1959.

Which year can you be definite about ?--- What I am trying to tell you is in 1962 when they started causing us trouble, that is when I took notice of them.

No you didn't. Just a few moments ago you said in (10 1959 you took notice of them ?--- (Witness speaking in English:) Because the Counsel I told him in the first place that I cannot be definite as to what year and date I met and happened to know these people, but I know them for some time. And the Counsel insists wanting me to (15 specify dates and years and I had to say on or about 1959 and so M'Lord, this Court will excuse me. I say I cannot be definite on that).

Do you wish to dispense of the Interpreter ? Do you want to carry on in English yourself ?--- M'Lord, it (20 appears to me that Counsel does not understand what I am trying to say. When I try to explain something he tries to push me into a corner. I don't know whether he wants me to tell lies or what M'Lord. And I do not want to tell this Court any lies. (Witness continues in Xosa with (25 the services of the Interpreter).

Let me just tell you something. If there were any unfairness His Lordship would have interfered long ago. Now you just answer the questions and stop arguing. I don't wish to enter into an argument with you. Forget (30 about/....

about the year 1962. You say you've known the accused for a long time ?--- I said I've known them some time. I cannot tell since when, what year. It is quite easy for a person to forget what took place in 1959. But what took place in 1962 when they caused us all this trouble I will (5 not forget.

I want you to cast your mind back to 1961. Did you know the accused in 1961 ?--- I have already explained that I have seen them but never took any notice of them.

Did you know them in 1960 ?--- I cannot say. (10

Did you actually see accused no.4 in 1961 ?--- (Mr. Wienand adds) Did you actually see him in 1961 ?---I cannot say.

Did you actually see accused no.3 in 1961 ?--- I cannot say. (15

Did you see them in 1960 at all ?--- I have already said I cannot say. I am talking about 1962 when I began to take notice of them.

When did you begin to take notice of them in 1962 ?--- During 1962, I cannot remember what month. (20

The beginning of 1962 or the end of 1962 ?--- About the middle of the year, approaching September of that year.

And you say they started interfering with you in regard to your meetings ?--- Yes.

Were a lot of meetings held during that period from (25 September, to December, 1963 ?--- There were meetings.

Were there a lot of meetings ?--- Quite a number.

Can you say how many ?--- I cannot say exactly how many. But there were meetings.

More than five ?--- I cannot say, I made no record (30

of/....

of the meetings held. I haven't got the records in front of me.

This was last year ?---That makes no difference, I have no record made. All I can say is that there were quite a number of meetings held. (5

Were there more than two then ?--- Yes, more than two.

More than four ?--- What must I say now ? I have said that there were quite a number of meetings held.

I want you to give the Court the approximate amount (10 of meetings ?---How can I tell the Court something I don't know.

At each and every one of these meetings do you say that accused no's 3 and 4 were present ?--- I said that they were at a meeting held at a place called Topee. (15 They said we must close the meeting, we could not hold a meeting without informing them, and they interfered at a meeting held at St.Phillips. There they locked the doors so that we could not get out and threatened us with knives. I don't know who opened the door, but while (20 we were going out accused no.3 followed us and wanted us to tell him who the Government supporters were. But we did not reply.

Did he actually ask you that ?--- He asked Mr.Mahe in my presence, saying "come on, tell us". (25

You said in your evidence-in-chief that, I think it was accused 3 and 4 said to you, that you had said during 1960, that the Transkeian people were not ready for self-government ?--- Yes, they said so.

Which of the two accused said so ?--- Accused no.3. (30

And/...

And that the people would not be ready for another 25 years ?--- Yes, and he added saying to me: "...we don't want to hear anything more from you".

Did you actually say that in 1960 ?--- I did say so.

You say later accused 3 and 4 came to you and told (5 you that they didn't want you as a representative ?--- They did not come to me alone M'Lord, they said this at the meeting.

Was it during the meeting then that the accused 3 and 4 said to you that they didn't want you as a representa- (10 tive ?--- Yes.

And they also said to you that you were a sell-out and that you would die ?--- Yes.

You were also to hold - you were also told that you were not to hold a meeting in support of Chief Matanzima?- (15 Yes.

Again was it accused 3 and 4 who said so ?--- I said M'Lord, it was accused 3 and 4 and others.

Both accused no.'s 3 and 4 will admit attending those meetings, being present at the meetings you mentioned, (20 at Topee and St.Phillips Hall, and accused denies speaking to you or making any remarks ?--- (Mr.Wienand adds) He denies speaking to you at any stage ? Is it possible that you are mistaken ?---I am not mistaken. What about a meeting that was held on the 9th December ?. (25

I'll ask the questions. Accused no.4 also says that he never spoke to you at any stage ?---I am not mistaken.

You remember you say that they were there at the meeting held in St.Phillips Hall, is that right ?--- Yes.

When was that meeting ?--- It was a meeting held (30 during/....

during September, 1962.

According to your version just now, you only took notice of accused 3 and 4 in December, 1963 ?---
(Court intervenes).

CLOETE J: The starting of the trouble in 1962. (5

MR.WIENAND: I am sorry M'Lord. That is September, 1962 ?--- That was not the first meeting they gave us trouble at the one that was held at St.Phillips. I have already said that at this meeting when we were preparing to go to Matanzima's place, they were present. (10

Accused no.3 says that in September, 1962, he wasn't there, he couldn't have been there because he was in gaol ?--- He was at the meeting.

The meeting of the 9th, they both deny being there ?--- They were there. (15

NO FURTHER QUESTIONS BY MR.WIENAND.

CLOETE J: Have you got the dates when no.3 was arrested ?-

MR.D'ARCY: I have the dates, Douglas Sparks, was arrested on the 22nd September, 1962, that is accused no.3. He appeared in Court on the 23rd September, 1962, and then (20 he was released on bail on the 1st October, 1962. R200 bail. And then the meeting of Matiwana that was referred to, 9 p.m. on the 30th September, 1962, at the Community Centre in East London.

NO RE-EXAMINATION BY MR.D'ARCY: (25

BY ASSESSOR (name not given):

You of course, don't know who threw those objects into your house ?--- I did not see, I was asleep.

MR.D'ARCY CALLS: (On count 9.)

JANE HOYI: Sworn States.

EXAMINED BY MR.D'ARCY:

You are the wife of the last witness ?--- Yes.

And you live with him at 774 Kwinana Street, Duncan (5
Village ?--- Yes.

On Sunday the 16th December, 1962, were you at home
in your house ?--- Yes.

You were cleaning up after the fire ?--- Yes.

Did you find anything of interest while you were (10
working there ?--- Yes.

What did you find ?--- It was a thing about the size
of my index fingernail and I gave it to Mati. I don't know
what it was.

Just have a look at it, portion of exhibit 3 ?--- (15
I don't know whether this is the one, but the one I remember
I think was a bit longer than this.

Was it longer but otherwise the same ?---It is similar
to that one.

You handed that to Mati ?--- Yes. (20

Where did you find that ?--- Just below the window,
below the window sill.

Inside or outside the house ?--- Outside.

CLOETE J: You don't dispute this Mr.Wienand, do you ?.

MR.WIENAND: No. (25

CLOETE J: That the witness found what appeared to be
a bullet ?.

MR.WIENAND: No.

MR.D'ARCY: Was it near the place where there were marks
in the wall ?--- Yes, about 2 feet from the wall. (30

You/....

You don't know how long ?--- About three feet.

You say you handed it to John Mati ?--- Yes, I gave it to Mati.

NO FURTHER QUESTIONS BY MR.D'ARCY.

CROSS-EXAMINED BY MR.WIENAND: NO QUESTIONS.

(5

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MR.D'ARCY CALLS:

JOHN MATI: Sworn States.

EXAMINED BY MR.D'ARCY:

You reside at no.773 Kwinana Street, Duncan Village ?--- Yes. (10

On Sunday the 16th December, 1962, you were at the house of Hoyi ?--- Yes.

Did you see Jane Hoyi sweeping up pieces of glass ?--- Yes.

Did you see her picking up anything unusual ?--- Yes, a bullet. (15

Were you there when she picked it up ?--- I was standing right next to her.

And she handed it to you ?--- Yes.

And then you subsequently handed it to detective sergeant Card ?--- Yes. (20

Is this the bullet, part of exhibit 3 ?---This is it.

On Monday the 17th December, did you pick up anything ?--- Yes. (25

What was it ?--- A cartridge case.

And you handed that to detective sergeant Card too ?--- Yes.

Is this the cartridge case produced, part of exhibit 3 ?---This is it. (30

Where/....

Where did you find that ?--- In the street in front of thehouse.

You pointed out the spot where the bullet was found and where the cartridge case was found to the police draughtsman ?--- Yes. (5)

On the 15th December, in the evening, were you at home ?--- Yes.

Did you hear anything unusual ?--- Yes.

What did you hear ?--- I heard a noise at the window and glass fell and I heard a pistol shot. (10)

Were you able to locate where the pistol shot was fired ?--- I cannot say, I was asleep when this noise woke me.

NO FURTHER QUESTIONS BY MR.D'ARCY.

CROSS-EXAMINED BY MR.WIENAND: NO QUESTIONS. (15)

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MR.D'ARCY CALLS: (On count 5.)

SAMUEL TUTU: Sworn States.

EXAMINED BY MR.D'ARCY:

Do you know Simmington Dukada ?--- Yes. (20)

You live at no.22 Miné Street, Duncan Village ?---Yes.

Where does Dukada live ?--- He stays at 32 Miné Street.

That is quite near your place ?--- The number given in my address is incorrect. My address and this man's address are the same. (25)

You are the brother-in-law of Dukada ?--- Yes.

On the 19th August, 1962, he was wounded, shot ?--- Yes.

And on the morning of the 20th August, you went to the spot near where the complainant fell ?--- Yes. (30)

Did/....

Did you search that locality ?--- Yes.

Did you find anything ?--- I picked up two bullets.

CLOETE J: Are they bullets or cartridges or what ?---
One was an expended cartridge case the other was a live
bullet. (5

MR. D'ARCY: Exhibit 4 ?---Yes, these are the ones.

What did you pick up ?---Two expended cartridge
cases and one live bullet.

Did you pick up all three or only two ?--- I picked
up one expended cartridge case and one live bullet. (10

You handed them to the police is that correct ?---
Yes.

CLOETE J: Did you show the police the place where you
picked them up ?--- Yes.

MR. D'ARCY: Do you know the name of the policeman you (15
handed them to ?--- Mr. Hattingh.

Mr. Henrico?--- I mean Mr. Henrico.

When did you hand them over to him ?--- The same day,
I think it was shortly after 11 a.m.

Did you also point out the spot where you picked (20
them up ?---Yes.

NO FURTHER QUESTIONS BY MR. D'ARCY:

CROSS-EXAMINED BY MR. WIENAND: NO QUESTIONS.

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MR. D'ARCY CALLS: (On count 11) (25

RILA NCOBI: Sworn States.

EXAMINED BY MR. D'ARCY:

You are a Bantu constable in the South African Police
stationed at Duncan Village ?--- Yes.

On Friday the 11th January, 1963, you were (30

proceeding/....

proceeding along Independence Street, on your way to the police station ?--- That is correct.

You were due to assume duty at the police station at about 9.45 p.m. ?--- Yes, I was on my way to work.

What happened when you were walking along Independence Street ?--- As I alighted from the bus in Independence Street, a person came up behind me, I continued and he followed me. (5

You say you alighted from the bus, was he also on the bus ?--- I don't know whether he got off the bus or not (10 I had walked around the bus when I first saw him.

You say he followed you ?--- Yes. Whilst crossing Church Street I heard a sound behind me and as I turned around a shot was fired which struck me.

Struck you where ?--- It struck me on the left (15 shoulder blade M'Lord, and came out just below my left collar bone.

Are you sure it came out ?--- No, the lump could be seen on my chest where it was.

Did you look around then ?--- I saw a person behind (20 me, and gave chase, but this person left me behind.

Were there other people in the street at the time ?--- On the corner of Independence Street and Frederick Street, under the streetlight, I saw three men standing, that were ahead of me. (25

Which way were you facing when this shot was fired ?--- (Mr. D'Arcy adds) Were you facing buildings, or were you facing the street ?--- I was facing Frederick Street.

Did you pass Frederick Street ?---No, I was shot before I reached Frederick Street. (30

(Question indistinct) -- Yes, that was the direction I was going.

And after you had been hit, did you look around you say?--- Yes, I gave chase to this person behind me.

You didn't catch him?--- No. (5

Did you see any weapons in possession of this person whom you chased?--- I could just see that he had an object in his right hand.

Do you know what it was?--- No, I don't know what it was. (10

Was that the only person that you saw at the time?--- He was the only person that I saw.

And you were removed to hospital?--- Yes.

And were you detained there?--- Yes.

Do you know whether a doctor removed the bullet?--- (15
The bullet was removed on the 11th January. M'Lord, I was shot on the Friday, the following Monday the bullet was removed.

Did you see the bullet after it had been removed?--- No. I asked the doctor to show me the bullet but he only (20 gave me a local anaesthetic and refused to show me the bullet.

Are you fully recovered now?--- I cannot say that I have recovered completely, because I still - my chest still aches now and again. (25

On the 6th February, 1963, at about 3.15 p.m. you attended an Identification Parade at the Fort Glamorgan Gaol, is that correct?--- Yes.

Who were you asked to point out at that parade?--- I was asked to identify the persons who had shot me. (30

Did/...

Did you identify anybody ?---Yes.

Who ?--- Mzwandile Mandla.

Is he the man who followed you from the bus and then ran away after you were shot ?--- Yes.

CLOETE J: How did you come to point out Mzwandile Mandla ?--- When I chased him in Independence Street, we were both under a streetlamp and I could see this person. (5

Could you see who he was ?--- I did not know this person's name, but I could see the shape of his body, the build. (10

His complexion ?--- I was able to see his face and what he was wearing on his head.

What did he have on his head ?--- He was wearing a black beret.

Not a balaclava cap ?--- (Interpreter: The witness (15 has just explained this beret was sitting right on top of this person's head, it did not cover his whole head.)

NO FURTHER QUESTIONS BY MR. D'ARCY:

CROSS-EXAMINED BY MR. WIENAND: NO QUESTIONS.

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(20

MR. D'ARCY CALLS: (On count 12.)

CLEMENT DUKADA: Sworn States.

EXAMINED BY MR. D'ARCY:

You live at no. 1, 352 Neukne Street ?---That's correct.

Duncan Village, East London ?---Yes. (25

And you are the brother of Simmington Dukada ?--- Yes.

You were a member of the Bantu Advisory Board in Duncan Village from 1960 until February, 1961, correct ?--- Yes.

You remember the 11th February, 1963 ?--- Yes. (30

You/.....

You were in a motor car driven by one Jack Mangianga ?--
Yes.

Where were you going ?--- I was alighting from that
car, I was about to go home.

Where did you alight ?--- In Camp Street and went (5
from there to Mgana Street.

Were you on your way home ?--- Yes.

What happened when you walked along Mgana Street ?---
I was walking along when a youth approached from the
opposite direction. This youth walked past on my right (10
hand side. Shortly after this youth had passed me without
saying anything to me at all I then heard a pistol shot fired.
That was about 10 feet away from me and I turned around and
looked. I stood looking at this person trying to identify
him and with that this person ran away down Mgana Street. (15
I was unable to recognise this person or see who he was.
He had something covering his face, I could not see clearly.

How far away were you from him - when you turned
around, how far was this person from you ?--- About from
here to the other end of the Courtroom. (20

CLOETE J: About 11 paces.

MR. D'ARCY: What was he doing when you turned around and
saw him, was he running away or was he looking in your
direction ?--- When I turned around he was facing me.
As I bent down to see if I could see who the person was, (25
this person turned around and ran away.

Have you any idea in which direction the bullet
went ?--- This bullet was fired in my direction but did not
hit me.

What makes you say it was fired in your direction ?- (30

The/....

The dust arose from just in front of me.

How close to you did this bullet pass you ?--- I could not see exactly how far, but it was on the pavement next to me.

Did you report this to the police ?---The following (5 morning I did yes.

You pointed out to them the spot where you were walking ?---Yes.

Did you point anything else out ?--- No, I just pointed the spot out where I was standing when I was **shot**. (10

Do you know any of the accused ?--- I know all **five** of them.

Have you ever had any trouble with any of them ?--- No, I have never had any argument with them.

Have you ever had any trouble in connection with (15 your office on the Bantu Advisory Board ?--- I have **never** quarrelled with any of the accused at all.

Anybody else ?--- Not that I can remember.

CLOETE J: What time of the day or night did the shooting take place ?--- It was after 10 p.m. I was returning (20 from a meeting.

NO FURTHER QUESTIONS BY MR.D'ARCY.

CROSS-EXAMINED BY MR.WIENAND: NO QUESTIONS.

COURT ADJOURNS TO THE 20TH FEBRUARY, 1964 at 9.15 a.m.

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(25

ON RESUMPTION ON THE 20TH FEBRUARY, 1964.

MR.JOUBERT: CALLS

DR.RHODA MARY BENNETT: Sworn States.

EXAMINED BY MR.JOUBERT:

Doctor, you are a Medical Practitioner at the Frere(30 Hospital/...

Hospital in East London ?--- Yes.

On the 16th December, 1962, were you on duty at the Casualty Department of the Frere Hospital ?--- Yes.

Was it the evening ?---It was early in the morning.

Were two persons admitted to the hospital ?---Yes. (5

And they were Linda and Daphne Hoyi ?--- Yes.

At the time of the admission did you examine them to see what injuries they received ?--- Yes.

Did you compile a written report at the same time that you examined them ?--- Yes. (10

I hand you the report completed in respect of Linda Hoyi, that will be exhibit Z. Will you just read out the injuries you found on this person ?--- She had severe burns on her arms and legs. That's about all, she was badly shocked. (15

Will you just hand in that report. I also hand you the form completed in respect of Daphne Hoyi, will you just read out the injuries you found on her, exhibit AA. ?---She had severe burns on her whole body, except feet, lower abdomen and back. (One word indistinct) incised wounds (20 on her upper right arm and was also severely shocked.

She died late on the 17th, is that correct ?--- She She died on the 20th.

On the 20th December, 1962 ?--- Yes.

Could you ascertain what the cause of that deep (25 incised wound on the right arm was ?--- I don't know what caused it.

CLOETE J: A sharp instrument, would it be a cutting instrument ?--- It looks like an axe.

MR.JOUBERT: It could have been a piece of glass from a (30 window/.....

window pane ?-- Is that possible ?--- It might have been.

M'Lord, at this stage I think the Defence will admit that Daphne Hoyi mentioned in the indictment is the same person.

CLOETE J: The Defence will probably admit that both these (5 people on whom - of whom Dr. Bennet has spoken are the two children who were in the house of Hoyi the night when the fire took place.

MR. WIENAND: That is so.

CROSS-EXAMINED BY MR. WIENAND: NO QUESTIONS. (10

CLOETE J: What was the cause of death of this little child ?---She died of shock from the burns.

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MR. JOUBERT CALLS: (On count 9.)

ELKANAH REUBIN JAMMY: Sworn States. (15

EXAMINED BY MR. JOUBERT:

Doctor, you are a medical practitioner and Assistant District Surgeon or you were the Assistant District Surgeon during December, 1962, at East London ?---That is correct.

On the 21st December, 1962, did you conduct a Post- (20 Mortem Examination on the body of Daphne Hoyi ?---Yes.

At the time when you examined her, did you complete a form ?---Yes.

Of your findings. I hand you the form, just refresh your memory from it, that will be exhibit BB. Just (25 describe the injuries ?--- Dry burns covering 75% of the body surface. The cause of death was shock caused by extensive burns. External appearances of the body and condition of the limbs. 75% of the body surface presents a mixture of 1st, 2nd and 3rd degree burns, only the back (30 escaped/...

escaped serious burns. There is one incised wound on each leg and arm caused by doctors for the introduction of (one word indistinct) glucose water and saline. The trachea and bronchi were congested, there were 4 oz. of fluid in the right plural cavity and there was pneumonia. (5 There was 3 oz. of fluid in the left plural cavity and there was also pneumonia. The pericardium was flabby, there was a (one word indistinct) in the pericardium and there were punctate haemorrhages in the (one word indistinct). (10

You adhere to your findings doctor ?--- Yes.

NO FURTHER QUESTIONS BY MR. JOUBERT.

CLOETE J: I take it you admit Mr. Wienand that the body upon whom the doctor performed the Post-Mortem Examination is the body of Daphne Hoyi who was injured in the burning (15 incident ?.

MR. WIENAND: That is so.

CROSS-EXAMINED BY MR. WIENAND: NO QUESTIONS.

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MR. JOUBERT CALLS: (On count 5). (20

SAMUEL WILLIAMS: Sworn States.

EXAMINED BY MR. JOUBERT:

You are a Bantu sergeant in the South African Police, stationed at Duncan Village ?--- That is correct.

At about 6.30 p.m. on the 19th August, 1962, were (25 you on duty at the Duncan Village Police Station ?--- I was.

You received a report and where did you go to ?--- I went to Miné Street, Duncan Village. There I received a report that Dukada had been shot.

Did you make a search for anything ? Were you at the (30 spot/....

spot where he was shot ?--- Yes.

What did you do ?--- Dukada himself had already been removed. I searched the spot.

Did you find anything ?--- I found an expended cartridge case. (5)

I show you one, can you say whether that is the one you found ?--- Similar to this one.

Part of exhibit 4. You took possession of this expended cartridge case is that correct ?--- Yes.

What did you do with it, did you hand it to (10) constable Henrico later on ?--- I handed it to constable Henrico at the charge office.

At a later stage did you point out the spot where you picked this expended cartridge case up, to the official photographer and draughtsman ?--- Yes. (15)

NO FURTHER QUESTIONS BY MR.JOUBERT.

CROSS-EXAMINED BY MR.WIENAND: NO QUESTIONS.

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MR.JOUBERT CALLS: (On count 5.)

CHRISTOFFEL HENRICO: Sworn States. (20)

EXAMINED BY MR.JOUBERT:

You are a detective constable in the South African Police stationed at Duncan Village, is that correct ?--- That is correct.

On the 20th August, 1962, did you receive anything (25) from Williams ?---Yes, I received an expended cartridge shell, 6.35 m.m.

What did you do with it ?--- I placed it in an envelope and marked it with a case number, and locked it away in my office drawer. (30)

You/....

You see that expended bullet case before the Court, can you identify it or is it similar to the one you received ?--- It is very much similar to the one I received from Williams.

Part of exhibit 4. And you locked it away in your office drawer ?--- Yes. (5

Is that on the same date ?---Yes.

On the same date did you receive an expended bullet case from Samuel Tutu ?--- That is correct. I did the same with that one M'Lord. I also placed it in a different envelope. (10

Was it only a bullet case or a bullet too, a live cartridge ?--- There was a bullet too M'Lord. The bullet and an expended cartridge shell.

I show you the live bullet and cartridge case ?--- Correct. (15

Part of exhibit 4. And you did the same ?---Placed it in an envelope and marked it with a case number, and locked it away with the other one.

At a later stage you handed these to - the bullet - (20 the live bullet and the two cartridge cases you handed over to detective sergeant Card ?---That is correct.

NO FURTHER QUESTIONS BY MR. JOUBERT.

CROSS-EXAMINED BY MR. WIENAND:

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(25

MR. JOUBERT CALLS: (On count 7)

EDWARD RALPH GRIFFITHS: Sworn States.

EXAMINED BY MR. JOUBERT:

Are you a detective sergeant in the South African Police and stationed at Duncan Village ?--- I am. (30

On/....

On the night of the 9th December, 1962, did you go to Bika Street ?--- I did.

What did you do ?--- I went there accompanied by Matoti, and I examined the scene of the alleged crime and I found an expended cartridge case of 6.35 on the verandah (5 of no.464 Bika Street, which I took possession of.

I later sent it to the South African Criminal Bureau, Pretoria. At a later stage Matoti handed me a 6.35 bullet, CLOETE J: A live bullet ?--- A live bullet, which I handed to detective sergeant Card. (10

MR.JOUBERT: Are these the exhibits you received - similar to the exhibits you received ?--- Yes.

Exhibit 5. Is that the certificate of posting of the registered mail to this Criminal Bureau in Pretoria ?--- That is so. (15

That will be exhibit CC. On the 23rd March, 1962, was it 1963 ?--- At a later stage I pointed out to Mr.Sauer.

To detective Warrant Officer Sauer ?---That is correct.

You pointed out certain spots ?--- Yes, and he took a photograph of the scene in my presence. (20

On the 18th November, 1962, about 6.30 a.m. in the morning, did you accompany Captain Venter ?--- I did.

To the house of Dickson Dyani ?---That is correct.

Yes ?--- Where Dickson handed to me a bottle, shattered bottle which I took possession of. I also packed that (25 and sent it to Pretoria for analysis, and at a later stage on its return I handed that to detective sergeant Card.

Exhibit 15 before the Court, is that the bottle ?--- That is the one.

Is that the pieces handed to you by Dyani ?--- That (30 is/...

is so.

NO FURTHER QUESTIONS BY MR.JOUBERT.

CROSS-EXAMINED BY MR.WIENAND: NO QUESTIONS.

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MR.D'ARCY CALLS: (Counts 5,9, 10 and 11). (5)

ADRIAAN ACKERMAN: Verklaar onder eed.

ONDERVRA DEUR MNR.D'ARCY:

Is u 'n Adjudant-Onder-Offisier in die Suid-Afrikaanse Polisie en gedurende 1962, was u gestationeer te King William's Town ?--- Dit is so. (10)

Het u sekere bewysstukke na Pretoria toe geneem ?--- Ek het.

Wanneer was dit gewees ?--- Ek het dit oorhandig daar die 6de Mei 1963.

Wanneer het jy dit ontvang ?--- Die 4de Mei 1963, (15
Van speurder sersant Card ?--- Dit is reg.

En u het dit oorhandig aan speurder sersant van Schalkwyk by die Kriminele Buro te Pretoria ?--- Ja.

Dit was 'n verseëlde pakkie gewees ?---Dit was.

Weet u wat die inhoud van die pakkie was ?--- Ek (20
was bewus.

Kyk net 'n bietjie na bewysstukke, 3, 4, 5, 6, 7 en 8.
Het u die bewysstukke gesien of is die pakkie net aan u oorhandig ?--- Ek het die pakkie net oorhandig.

U weet nie van u eie wete wat die inhoud was nie ?- (25
Nee.

Later het speurder sersant van Schalkwyk vir u die pakkie weer terug oorhandig ?--- Ja.

En u het dit weer teruggebring na Oos-Londen ?---Ja,
en aan sersant Card oorhandig. (30

GEEN VERDERE VRAE DEUR MNR. D'ARCY.

KRUISVEPHOOR DEUR MNR. WIENAND: GEEN VRAE NIE.

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MNR. D'ARCY ROEP: (Op klagtes, 3, 5, 9, 10 en 11.)

ALBERTUS PETRUS JOHANNES VAN SCHALKWYK: Verklaar onder eed.

ONDERVRA DEUR MNR. D'ARCY:

U id 'n speurder sersant in die Suid-Afrikaanse
Polisie gestationeer te Pretoria ?---Dit is reg.

Wat is u pligte ?--- Ek is 'n ondersoeker van
vuurwapens. (10

Hoeveel jaar ondervinding het u in hierdie gebied ?---
Twee jaar ongeveer.

Op die 18de Desember 1962, het u 'n pakkie - verseëlde
pakkie ontvang vanaf die polisie te Oos-Londen ?--- Reg.

Het u dit oopgemaak ?--- Ek het die pakkie oopge- (15
maak.

Wat het u daarin gevind ?--- Die pakkie het bevat
een 6.35 m.m. gevuurde patroon doppie.

Dit was deel van bewysstuk 5. Was dit net 'n
doppie ?--- Dit was net 'n doppie ja. Ek het hierdie (20
doppie vergelyk - mikroskopies vergelyk - met patroon
doppies wat ek op 'n later datum ontvang het.

Toe u dit ontvang het, het u dit gehou ?--- Ek het
hierdie patroon doppie bewaar.

Wat was u doel, wat was die rede waarom u dit gehou (25
het ?--- Dit was aan my gevra dat die patroon doppie moet
gehou word sodat as die vuurwapens na daardie kantoor
gestuur word ek dit moet vergelyk met die patroontjies.

Op die 24ste Desember 1962, het u 'n verseëlde pakkie
ontvang van speurder - van die polisie te Oos-Londen ?--- (30

Dit/...

Dit is reg. Die pakkie het bevat 2 x 6.35 m.m. patroon doppies; 1 x 6.35 m.m. patroon; en 1 x 6.35 m.m. koeël. Derdens het die pakkie bevat een 6.35 m.m. lewe... (laaste deel van sin onduidelik - getuie praat baie sag).

Die eerste pakkie is bewysstuk 4. ?--- Dit is heel- (5
temal reg.

Is dit Dukada ? Is daar enige merke aan in verband met Dukada ?--- Daar is nie 'n naam op nie.

CLOETE R: Op die koevert, was daar enige naam op geskryf ?--- Dit word aangedui met 'n R.O.M. nommer. (10

Net die saak nommer is aangegee ?--- Ja.

MNR. D'ARCY: Dit is bewysstuk 4. ?--- Reg. Die doppies voor die Hof.

En die tweede pakkie wat jy genoem het is bewysstuk 3 ?--- Dit is reg. (15

Die derde pakkie is deel van bewysstuk 5 ?--- Reg.

CLOETE R: Is al hierdie doppies deur dieselfde vuurwapen gevuur ?--- Ek sal nou getuienis daaromtrent gee.

MNR. D'ARCY: Jy sê die derde koevert bevat deel van bewysstuk 5 ?--- Dit is reg. (20

Het u hierdie bewysstukke ondersoek ?--- Ek het.

Wat het u toe gevind ?--- Ek het die bewysstukke mikroskopies vergelyk uit mekaar, en ek het gevind dat die bewysstukke 4 en 3 - patroondoppies - deur dieselfde vuurwapen gevuur is. (25

Wat van die koeël, bewysstuk 5, het u enige afleidings gemaak op daardie stadium in daardie verband ?--- Geensins, ek het geen koeëls ontvang om dit daarmee te vergelyk nie.

U het toe hierdie bewysstukke onder bewaring gehou?--- Ek het die bewysstukke onder bewaring gehou vir dieselfde (30
doel/...

doel as wat ek voorheen gemeld het.

CLOETE R: Naamlik, om te wag vir 'n vuurwapen ?--- Dit is korrek.

MNR.D'ARCY: Op die 6de Mei 1963, het speurder Onder-Offisier Ackerman - verskoon - op die 25ste Februarie (5 1963, het u 'n verdere verseëlde pakkie ontvang ?--- Die 28ste Februarie.

Wat het hierdie pakkie bevat ?--- Hierdie pakkie het bevat 2 x 6.35 m.m. patroondoppies.

Bewysstuk 7 ?---Ja, asook 2 x 6.35 m.m.koeëls, en (10 een 6.35 m.m.lewendige rondte. Dit is die patroondoppies en koeëls getoon voor die Hof.

CLOETE R: Deel van bewysstuk 7 ?--- Ja. Dan het ek nog ontvang 1 x 6.35 m.m.patroondoppie op dieselfde datum.

Dit is op die 28ste Februarie ?--- Ja. Een (15 6.35 m.m. koeël, bewysstuk 6.

MNR.D'ARCY: Dit is bewysstuk 6 ?--- Dit is bewysstuk 6. Ek het die patroondoppies en koeëls mikroskopies vergelyk met patroondoppies en koeëls wat ek op vorige datums ontvang het, en ek het gevind...(Hof kom tussenby). (20

CLOETE R: Dit is met wat bewysstuk 5 was, met bewysstuk 3 en 4 ?--- Ja, ek het hulle almal uit mekaar vergelyk.

Almal wat jy ontvang het, het jy vergelyk ?--- Ja, tot op daardie datum.

MNR.D'ARCY: Asook bewysstuk 5 wat jy ingekry het in (25 Desember maand ?--- Ja.

Wat het u toe gevind ?--- Ek het gevind dat bewysstukke 4,3 en 6, patroondoppies en bewysstuk 7...(Hof kom tussenby).

CLOETE R: Ook 'n doppie ?--- Ja, almal met dieselfde vuurwapen gevuur is. Bewysstukke 6 en 7, patroondoppies, was (30 nie/....

nie in dieselfde vuurwapen as die bewysstukke 4, 3, 6 en 7 gevuur nie.

Ek verstaan nou nie. Bewysstukke 3, 4 en 6 doppies ?--
En 7.

Ja, wat van hulle ?--- Hulle was almal in dieselfde (5
vuurwapen.

Wat van - 3, 4, 6 en 7 is almal in dieselfde vuurwapen,
nou watter twee was nie in dieselfde vuurwapen ?---Ver-
skoning, ek het dit nou verwar met koeëls. Ek sal dit
net weer herhaal. Bewysstukke 5 en 7. (10

Koeëls ?--- Dit is nou patroondoppies, ek moet net
meld dat in bewysstuk 7 is daar twee patroondoppies. Die
een verskil met die ander deel van bewysstuk 7.

Met ander woorde daar is 2 x 6.35 m.m. doppies
deel van bewysstuk 7 ?--- Dit is reg. (15

En hulle is nie altwee uit dieselfde vuurwapen
gevuur nie ?--- Ja.

Een is en een is nie ?--- Presies.

MNR. D'ARCY: En bewysstuk 5, is daar een doppie?--- Dit
is reg. (20

Die is ook nie van dieselfde vuurwapen gevuur nie ?---
Dit is heeltemal reg.

CLOETE R: As watter een ?--- As die ander bewysstukke
3, 4, 6 en die ander deel van 7.

Wat van 5 en 7, is hulle nie dieselfde vuurwapen (25
nie ?--- Bewysstuk 5 en die een doppie van 7 ?--- Nee.

Hulle was ook nie ?--- Nee.

Ja, nou wat die koeëls betref ?---Die koeëls,
bewysstukke 6 en 7, was in dieselfde vuurwapen gevuur.
Ek dink die koeëls was ook twee, bewysstuk 7, ek dink (30

dit/...

dit is net een van daardie koeëls.

Bewysstuk 7 het twee doppies, twee koeëls en een lewendige rondte gehad ?---Die koeël bewysstuk 5 en een van die koeëls, bewysstuk 7, was in dieselfde vuurwapen gevuur. (5

Bewysstuk 5 of bewysstuk 6?--- Bewysstuk 5.

Bewysstuk 6 ekskaus.

Bewysstuk 6 het 'n koeël en 'n doppie gehad ?--- Dit is reg.

Kan ons nie 'n skedule opstel van hierdie gegewens. (10

MR. D'ARCY: I have got a schedule here.

CLOETE J: Let him give his evidence first and then you can hand in a schedule. I don't think the Defence will dispute the evidence. Are you disputing it Mr. Wienand ?.

MR. WIENAND: No. (15

MNR. D'ARCY: Al hierdie bewysstukke het jy weer teruggestuur na Oos-Londen toe ?--- Ek het hierdie bewysstukke en die wat ek voorheen ontvang het, verpak en teruggestuur, na die S.A. Polisie, Oos-Londen.

Onder aangetekende pos ?--- Ja, verseël met (20
polisie seëlnummer 375. Ek kan net meld die bewysstuk nommers is verander, die wat die voorlopige ondersoek betref en wat hierdie betref.

CLOETE R: Daar was nie 'n voorlopige ondersoek - in 'n ander saak ?---Dit skep bietjie verwarring op die oomblik. (25

MNR. D'ARCY: Op die 6de Mei 1963, het u van Adjudant-Onder-Offisier Ackerman 'n verseëlde pakkie ontvang ?--- Dit is reg.

Hierdie verseëlde pakkie het jy oopgemaak ?--- Ek het.

En daarin het jy gevind bewysstukke 3, 4, 5, 6, 7, 8 en (30
pistool/...

pistool bewysstuk 1 ?--- Ja.

En bewysstuk 9 ?--- Ja, bewysstuk 9 was 'n magasyn met twee lewendige rondtes in.

CLOETE R: Dit is bewysstuk 1 ?.

MNR. D'ARCY: Ja. (5)

CLOETE R: Ons het nog nie 'n bewysstuk 1, het ons?.

MNR. D'ARCY: Dit is bewysstuk 1, die pistool, die magasyn is bewysstuk 9 ?--- Dit is die pistool voor die Hof, die nommer is 195187.

Wat het jy toe gedoen ?--- Ek het die pistool, (10
bewysstuk 1 ondersoek en dit in 'n werkende toestand gevind.
Die loop van die pistool was geroes. Die snellerdrukking van die pistool is $6\frac{1}{2}$ pond.

CLOETE R: Is dit normaal ?---Dit is bietjie bo normaal.
Ek het vier patrone in die pistool vir toetsdoeleindes (15
gevuur.

MNR. D'ARCY: Het jy die patrone uit bewysstuk 9 gekry ?---
Die patrone kom uit die magasyn bewysstuk 9.

En die wat jy die toets mee uitgevoer het is
bewysstuk 10 ?--- Ja. Dit is die patrone voor die Hof. (20

CLOETE R: Is dit bewysstuk 10 ?--- Ja.

Vier van hulle ?--- Ja.

Vier doppies ?--- Ja.

MNR. D'ARCY: Wat het u toe gevind ?--- Ek het bewysstukke
10, die vier doppies vergelyk met patroondoppies wat ek (25
voorheen ontvang het. Ek het gevind dat bewysstukke 4, 3,
6 en deel van bewysstuk 7 in die pistool gevuur is. Ek
handig 'n fotografiese vergroting in wat ooreenstemmende
merke toon. Bewysstuk DD. Die foto toon ooreenstemmende
merke veroorsaak deur die uittrekker van die pistool (30

bewysstuk/...

bewysstuk 1. Op die toets patroondoppies en op
bewysstukke 4,3,6 en deel van 7.

CLOETE R: Dit word gedoen deur wyse van 'n mikroskopiese
kamera, is dit reg ?--- Deur middel van 'n verlykende
mikroskoop. (5

En het u daardie mikroskoop hier net vir die
doeleindes van die Hof, dan kan jy net vir ons die
proses verduidelik. ?---Ja.

Verduidelik net bietjie vir ons hoe dit werk ?--- Die
patroondoppies word onder die oogstukke of lense van (10
hierdie mikroskoop opgestel. Daar is twee, die
mikroskoop het 'n brug, bokant elke lens is 'n prisma
met 'n spieël en hy weerkaats die beeld na 'n sentrale
prisma in die middel van daardie brug. Bo-op daardie
prisma is 'n oogstuk of 'n lens waardeur jy kyk en die (15
gesamentlike beeld van albei daardie patroon doppies
kan deur daardie oogstuk gesien word. Die middelste
prisma kan so beweeg word dat albei patroondoppies terge-
lyke tyd gesien word of elkeen apart. ^{Op}die wyse word die
patroondoppies bymekaar gebring en die merke wat ooreen- (20
stem word gepas.

MNR.D'ARCY: U het hierdie bewysstukke weer gepak en
weer aan mnr.Ackerman oorhandig, is dit reg ?--- Ek het.

GEEN VERDERE VRAE NIE.

KRUISONDERVRAGING DEUR MNR.WIENAND: GEEN VRAE NIE. (25

-----oOo-----

MR.D'ARCY CALLS: (On last count).

GERALD WILIAM ATWELL: Sworn States.

EXAMINED BY MR.D'ARCY:

You are a detective sergeant in the South African (30
Police/...

Police, ?--- I am.

What is the nature of your employment and your qualifications ?--- I am stationed at the South African Criminal Bureau and I have 13 years experience in the scientific examination of questioned documents. (5

CLOETE J: Of documents you say ?---Questioned documents, handwriting.

Not merely a handwriting expert, you examine other documents as well ?---Yes, we do etching too, that's when numbers are obliterated on rifles, motor cars and (10 so on.

MR. D'ARCY: I hand you two maps, were these submitted to you for examination ?---(Cloete J. intervenes).

CLOETE J: Are they exhibits E. and F. ?.

MR. D'ARCY: Exhibit EE. and FF. ?--- Yes, they were (15 handed to me by detective sergeant Card on the 13th September, 1963.

Did you examine those ?--- Yes.

Certain specimens were sent to you ?---They weren't sent, they were also handed to me by detective sergeant (20 Card on the same date mentioned.

Are those the (one word indistinct) and the hand-writings which were given to you ?--- These are some, but there are others still too on which I drew up - which I photographed certain exhibits and marked out the (25 certain characteristics, these are a portion of the specimen writings I received.

You were handed certain specimens of writing ?--- That is correct, handed to me by detective sergeant Card.

Will you just tell us what those specimens were and (30 who/....

who they were alleged to have been written by ?--- I had specimen writing of two persons unknown to me but the persons names are written on the top. Some of the specimens belong to one Shadrack Dwaba.

Just mark that exhibit GG. Is that one sheet of (5 paper there or several sheets ?--- No, there are numerous sheets of paper.

How many are there relating to Dwaba ?--- Five sheets (5 with the name of Dwaba and seven sheets with the name Stephen Tshwete. (10

That will be exhibit HH. The Tshewete ones. Will you just tell us what you did ?--- I examined the writing which of course, I'll have to explain is printing on exhibits EE. and FF. I examined the printing writing carefully there M'Lord, and I compared it with the (15 writing which is also printed on exhibits GG. and HH. Due to numerous significant corresponding writing characteristics, I arrived at the conclusion M'Lord, that the author of the specimen writings marked exhibit HH, that is Tshwete is responsible for the writings on (20 exhibits EE. and FF.

What makes you say that ?--- I have made photographic copies of exhibits EE. and FF. and also of portions of the writings which I took from exhibits HH. I will hand them into the Court M'Lord, and I will ex- (25 plain to the Court the significant corresponding characteristics I found.

That will be exhibit II.

CLOETE J: Exhibit FF. is the one with the map on it ?--- With Peddie below, just Peddie alone below. Then there (30 is/...

is another map with Peddie and police station below, also at the bottom.

That's EE. ?--- Yes. When referring to the significant corresponding characteristics which I found in my examination I will be referring to the specimen (5 writing marked exhibit II, and this specimen writing was then compared with these photographic copies and points I have marked out.

What photographic... ?--- Of exhibits EE and FF. In printing one has to rely mostly on form and construc- (10 tion of letters. I am pointing to the capital letter "E" which appears in the word "Blue Water" on exhibit EE at the top, with the two red arrows M'Lord, and then in the word "Peddie" on exhibit FF. at the bottom I've marked out the capital letter "E" there and then on the (15 specimen I have marked it out on - in the word "police" the 8th line from the bottom on the left hand side of exhibit II.

The "police", Fort Jackson ?--- That is correct. What I found there is the following. I found that this (20 capital "E" is written in three movements instead of four, with a second movement, continuous movement ending with an upward movement. I explain to the Court why I say three movements instead of four in this printing in this case. In printing the usual capital "E" M'Lord, is one (25 downstroke, one stroke across, one in the middle and one below which makes it four. In this case the first downstroke was a continuous movement forming the bottom horizontal stroke and then that horizontal stroke ending with an upward movement. (30

Then/....

Then he lifted the pen to make the other two cross strokes ?--- Then the pen was lifted to make the other two horizontal strokes. That is characteristic in the capital "E" M'lord. Then I am taking the capital letter "D". On exhibit EE I have marked it on the word "Kei Road" near the top of exhibit EE and then in the word "Middledrift" near the bottom, also on exhibit EE and on exhibit FF. I have marked it also in "Middledrift" and the word "Peddie" M'Lord. On exhibit II, I have marked it in the words "Middledrift" and "London". The significant characteristic which I find there is the following that this capital letter "D" is formed and constructed in a three-cornered manner.

In a triangular manner ?--- In a triangular manner. Usually in printing it is done either in four corners or in a rounded movement. Here I find this triangular construction and formation forming a sharp point for the third corner. Then taking the whole word "Middledrift" and there I will explain to the Court that is the whole word taken with all the letters. "Middledrift" also appears on all three the exhibits mentioned, that is exhibit EE., FF., and II. What I find there M'Lord, is the same formation in the capital letter "M", the capital letter "I", not dotted and it is constructed a bit smaller than the capital "M" next to it on the left and the capital letter "DD". There I find the capital letters "DD" are again the three-cornered or triangular construction I have explained to the Court. Then in the capital letter "L" on exhibit EE and exhibit II, they are identical M'Lord, and also on exhibit FF. After the downstroke has been completed and the horizontal stroke has been completed, then there/ ; . ;

there is an upward movement, a sharp upward movement that is the final stroke.

That doesn't appear on II ?--- On exhibit II it appears at the bottom. I have marked it right at the bottom on the right hand side. (5

There it is clear. The other one is not ?---No, but I found in this writer that sometimes he uses the upward movement and then sometimes he omits it, but then I find it in the specimen and in the questioned writing. Then I find the type of capital "E" I explained to the Court, (10 with the three movements instead of the four. Then the triangular capital "D" again, the capital "R" is ended again with the upward movement and then the capital "I" is again smaller in comparison to the "R" on the left hand side and capital "F" on the right hand side. I find no (15 difference in the final two letters, that is the "f" and the "t". All those letters taken in one word I find, what I find in the questioned writing I find in the specimen too. I can enumerate more, but if the Court wants me to enumerate more I could do so, but up to this stage I have (20 found enough already to connect the author of the specimen writing with the questioned writing, but I can go on, I have marked out. For instance the word "Hogsburg", that's another whole word, there I find again identical letters from the capital "H" to the end of the word the capital "G". Some letters made in a very significant manner. It would be impossible for anybody else to accidentally coincide all these characteristics in the same writing if written by dictation. I'll agree that one or two or three letters someone could accidentally write in the same way/...

way, but when it comes to more then it would be impossible to accidentally coincide those characteristics in writing by dictation.

MR.D'ARCY: Would you just deal with "Police station", I see you indicated "Police station" on exhibit EE and (5 II. ?---Yes, on exhibit EE I have indicated "police station" twice. I have marked out the "P" on the top left hand side, then at the bottom underneath "Peddie" I have marked out that capital "P" there too. I'll explain to the Court why I have marked out both because they are (10 executed each in a different manner and I find that in the specimen writing too. The one on the top of the left hand side of exhibit EE, in the middle on the left hand side I mean, this capital "P" has been executed in two movements, that is the downstroke the pen has been lifted (15 and then the oval has been put on to the downstroke. That is the one at the top and it is clear there M'Lord, the opening - you find the opening at the top of the downstroke the pen is lifted and then the movement has been made. Whereas the bottom capital "P" that is one continuous (20 downstroke movement, and then the movement goes to the left of the downstroke swinging around forming the oval of the capital "P".

CLOETE J: More in a script movement than in a printing movement ?--- That is correct, more in a script movement.(25

If you look at "station" there you'll see that "station" on the top left is printed and the "station" at the bottom underneath "Peddie" is written ?--- Yes, at the end it is joined together, the "ion", that's half I'd say printing and half script.

The capital "S" is printing and from there on it is (30 script/...

script ?---That is correct.

The "I" is dotted I think in the one under "Peddie" but the "I" is not dotted in the one above ... ?---That is correct.

MR.D'ARCY: How many points did you say you require (5 to establish ?---Fingerprints I think, there are seven points, I think 8, now - I am sorryll, but in handwriting nothing has been fixed because M'Lord, one characteristic in writing would be enough, but then it must be very highly significant, but usually we go up to 10 - 15 to satisfy ourselves to avoid the error that both letters could accidentally coincide with someone else's writing.

How many have you got here ? More than 15 ?---Yes, in one word alone I have taken two whole words like "Middledrift" and "Hogsburg". It is impossible for any- (15 one to sit down without having seen this and ask them to write "Middledrift" and "Hogsburg" in printing and to print every capital letter in the same manner as it is done in these two particular words alone. It is impossible, it can be tested any time. (20

You hand in those exhibits ?---I hand them in.

What about the other specimen writing which you had ?--- M'Lord,(Court intervenes).

CLOETE J: That is a different one altogether Mr.D'Arcy ?.

MR.D'ARCY: Yes, that is the other specimen now that we (25 are coming to. Have you got it there ? You have given us other specimens, did you compare those with exhibit GG ?--- Exhibit GG incorporates a specimen of Shadrack Dwaba. There I found due to in this case again of significant dis-similarities, not similarities. I came to (30 the/...

the conclusion that the author of exhibit GG, could not be responsible for the writings on exhibits EE and FF.

Will you just hand that in please, exhibit GG. ?---
Yes.

You have another plan which was handed to you ?-- (5
I have it in front of me.

Mark that exhibit JJ. Just tell us were you able to ascertain who wrote on that ?---I again examined the writing which is again in printing and some, one or two words are also in script. I examined the writing on (10
exhibit JJ, and compared it with the specimen marked HH. and GG. This was my finding here, that - I am referring to notes I made at the time of my examination. This is what I found M'Lord. I found that there is a strong resemblance between the specimen writings of (15
Shadrack Dwaba, exhibit GG, and the writings on the map of exhibit JJ, but there due to insufficient significant corresponding writing characteristics I could not come to a definite conclusion.

Are you prepared to say it is similar ?---No, I can't (20
go as far as that to say it is similar, if it is similar then I must find, if I say it is similar then I must find enough significant corresponding characteristics and that I have not found with which to prove to any Court beyond doubt that the writer of GG. is also the author of the (25
writing on exhibit JJ. Could I just explain something to the Court in the way our examination is done. Our examination is done and then our cases are divided into three. That is, the first examination it is positive, when it is positive we've got to find enough corresponding (30
characteristics/...

characteristics with which to prove to any Court beyond any doubt. Then we issue a positive report. Then the negative report we divide it into negative too, that is when we find dis-similarities, insufficient number, the points - that does not point to the author. There, that (5 is the middle one, like this one I explained now, where we find similarity but not enough. I can't then go and give evidence against an accused to say that he is the writer. I can only say I find a resemblance..

Those maps, are they of the same area, the same (10 locality, exhibit JJ, ?--- M'Lord, all the names are here, it is more or less the same, not more or less, some like Fort Jackson, Middledrift, I find there again. Alice; Peddie I find on it and numerous other names.

CLOETE J: Is that exhibit JJ. ?---That is JJ. (15

MR.D'ARCY: You were also handed some roneod circulars ?-- I was.

Pamphlets marked "C" and the pamphlet marked "U". I think if we mark the first pamphlet exhibit KK ?--- I had them with the markings on them as items 8 and 12. (20 That's how the police refer to them, and that's how I drew up my report on item 8 and item 12.

CLOETE J: Let's call them exhibit KK.(8) and exhibit KK.(12).

MR.D'ARCY: Yes M'Lord. One of them is the same as (25 exhibit M. And you were also handed two typewriters, exhibit 18 and exhibit 16 ?--- Yes.

Exhibit 16 is referred to by the police as article 3, exhibit 18 as item 4.

CLOETE J: Call them exhibit 16(3) and exhibit 18(4). (30

Mr. D'ARCY/....

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