

IN THE REGIONAL COURT FOR THE REGIONAL DIVISION EASTERN C...
HELD AT PORT ELIZABETH

CASE NO. SH6/109/78

DATE: 6/4/78

THE STATE VERSUS:

SAMSON SIPHO MDUSHANE & 3

BEFORE:

MR. McCARTHY

ON BEHALF OF THE STATE:

MR. P. CROUS

ON BEHALF OF THE DEFENCE:

ACCUSED 1 & 3 IN PERSON

ACCUSED 2 & 4: MR. JACKSON

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CHARGES:

SABOTAGE

PLEA:

ALL FOUR NOT GUILTY MAIN C...
ALL FOUR GUILTY ALT. CO...

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CASE NO. SH6/109/78

COURT: As the accused are obviously juveniles, only their parents may be present at the trial.

MR. JACKSON APPEARS ON BEHALF OF ACCUSED 2 AND 4.

PROSECUTOR STATES THE CHARGES.

ALL FOUR ACCUSED PLEAD GUILTY ON MAIN AND ALTERNATIVE CHARGES.

COURT: Mr. Jackson, are you only appearing for 2 and 4?

MR. JACKSON: Sir, the pleas are not in accordance with my instructions and I wish to withdraw in appearing for accused no. 2 and 4. (10)

COURT: The position is that your legal representative has indicated to the Court that the pleas were not in accordance with what you have told him 2 and 4, and consequently he is withdrawing from the defence at this stage. Do the accused 2 and 4 wish to obtain the services of some other legal representative or do they want to proceed with the assistance of their parents?

INTERPRETER: Accused no. 2 and 4 say, your Worship, firstly they want the services of another attorney, and secondly they want to consult their parents. (20)

COURT: The Court will give them a few minutes to consult their parents.

COURT ADJOURNS.

COURT RESUMES: Accused No. 2 and 4, what is the position now?

ACCUSED ? : Your Worship I plead not guilty the sabotage.

INTERPRETER: (INAUDIBLE) accused no. 2.

COURT: The accused has already pleaded. He will be given an opportunity of changing his plea. The position is that he has asked for an adjournment to consult his (30) parents in order to obtain the services of some other (30)

attorney. What has he decided?

ACCUSED NO. 2: After I have consulted my parents, your
Worship, I've come to the conclusion that the same attorney
should represent me in this matter.

COURT: Your attorney has withdrawn from this case.
He is not prepared to act for you.

ACCUSED NO. 2: I still need the services of my attorney.

COURT: Well, that is what the Court gave you an
adjournment for, to discuss with your parents and come
to some arrangement. Please don't just stand there, tell (10)
the Court what the position is. Do you want an adjournment
so as to go and find another attorney?

ACCUSED NO. 2: No your Worship, I don't want any other
attorney besides the attorney which is available now.

COURT: But the attorney has indicated that he is not
prepared to act for you.

MR. JACKSON: May I place something on record, sir?

COURT: Please Mr. Jackson.

MR. JACKSON: Sir I'm not prepared, (INDISTINCT) misunderstood,
I'm not prepared to act for them on the basis that a plea (20)
of guilty of sabotage stands, because those are not in
accordance with my instructions. If, however, depending
on what your Worship decides is the next step in this
matter, something else transpires, then I may well be in
a position to take instructions from the accused and act,
but I don't know what is going to transpire from now
because your Worship will appreciate my difficulty. If they
plead guilty and you then ask me to address you in terms
of Section 112, I haven't the instructions to address you
in terms of Section 112. I have got an instruction to (30)
address you in terms of 115, but not 112. As the plea

stands at the moment, which is the very thing, if I may say so with respect, that I envisaged would happen in this type of matter, I can't say anything in terms of 112.

COURT: Can you see anything wrong with the procedure at this stage being followed that the Court questions the accused in terms of Section 112 and try and establish whether the plea is in fact guilty or not?

MR. JACKSON: Yes sir, I foresee that there may be a potential prejudice to the two accused, having regard to the fact, if one does not lose sight of the fact sir, (10) with respect, that you are dealing with two juveniles of what can only be termed probably limited education at this stage of their lives and you're dealing with a charge here, sir, which is a statutory position which has numerous technical aspects to it in regard to the objectivity of the calculations in respect of the accused's mind at the time the offence was committed sir. I don't think that these people are in a position to answer your questions coherently on this particular aspect. The parents (I doubt if)(interruption) (20)

COURT: Do you think, Mr. Jackson, that they could answer your questions coherently?

MR. JACKSON: No sir, I think, sir, what they could do, from what they have told me and what I have put to them with the use of the official interpreter, that I am able coherently to explain to your Worship what has been explained to me in regard to, there is the very fact that if your Worship has in mind, I must say this with due respect your Worship, if your Worship does have in mind going through very carefully, the section with them, more particularly Section, (30) the section dealing, Section 2 (a) to (j) sir, of the

enactment, then perhaps your Worship may be able to elicit from them what they instructed me earlier today. That of course is up to your Worship, but Worship I'm not trying (interruption)

COURT: The Court has every intention of, the Court realises the implications of the charge and the Court will go to no end of trouble in order to establish or to satisfy the Court what the true position is.

MR. JACKSON: But your Worship does appreciate my position. I can't address you on 112 because I haven't got an (10) instruction.

COURT; TO ACCUSED NO. 1:

Accused No. 1, do you admit that on the 22nd of February this year, at New Brighton, that you stoned the buildings of the Ciskei Administration at Block 51, Avenue A, in New Brighton? -- Yes, I stoned that house.

And that you alone, or with others in concert, set the building alight? -- Yes your Worship.

And that this building was, in fact, destroyed by fire? -- Yes your Worship. (20)

And that on the same date you stoned the Dutch Reformed Church building, alone or in concert with others, whereby ten window panes were broken? -- I do agree to that your Worship.

And at the same time and place this Dutch Reformed church building, you alone or with the others, attempted to set it alight? -- That is correct, that is so.

And did you realise that if it was damaged the owners would be prejudiced? -- Yes.

And that also on the same date, you alone (30) or with the others, acting in concert, stoned the house of

Mr. Tyalite, situated at Dulumbo Street, 154 Dulumbo Street in New Brighton? -- Yes.

And that you alone or with the others, set this building alight? -- Yes.

And that a portion of the building was, in fact, burnt? -- That is so, your Worship.

Now, the provisions of the Law which makes these actions an offence provides, Sub-section (2), that no person shall be convicted thereof if he proves that the offence, objectively regarded, was not calculated and that(10) such offence was not committed with intent to produce any of the following effects, namely, in other words, if the accused can show any of these aspects, then it means that they are not guilty to the offence, in other words, if their actions did not produce any one of these results, firstly to cause or promote general dislocation, disturbance or disorder. Secondly, to cripple or seriously prejudice any industry or undertaking or industries or undertakings generally, or the production or distribution of commodities or foodstuffs at any place, or thirdly to seriously hamper(20) or deter any person from assisting in the maintenance of law and order. Fourthly, to cause, encourage or further an insurrection or forcible resistance to the Government. Fifthly, to further or encourage the achievement of any political aims including the bringing about of any social or economic change in the Republic. Sixthly, to cause serious bodily injury to, or seriously endanger the safety of any person. Seventhly, to cause substantial financial loss to any person or the State. Eighthly, cause, encourage(30) or further feelings of hostility between different sections of the population of the Republic. Ninthly, to seriously

interrupt the supply or distribution at any place of light, power, fuel or water, or of sanitary, medical or fire-extinguishing services. Tenthly, to embarrass the administration of the affairs of the State. Accused no. 1, do you understand what the Court has explained to you? -- Yes your Worship.

If you can show that your action ^{did} ~~need~~ not have any of these effects which the Court has enumerated to you, your plea cannot be one of guilty. Are you in a position to show that none of these effects were caused by (10) your action? -- Yes your Worship.

In what way, or which are you referring to? -- Your Worship I can give evidence to that effect, your Worship that I was not, it was not my intention to overthrow the Government.

Yes, but that is not the only thing you must do. You must be able to show all ten of these items. In other words, that none of these effects were caused by your actions. Can you? -- I cannot explain your Worship.

I'm not asking you to explain. All the (20) Court wishes to know, can you show that your actions were not committed with the intent to produce any of the effects which the Court has enumerated to you? -- Yes I'm in a position to show your Worship.

COURT TO ACCUSED NO. 2:

Have you followed what the Court explained to accused no. 1? -- Did not follow it properly and thoroughly, your Worship.

Accused 3 and 4 had better listen carefully because their turn will come later. Accused no. 2, do (30) you admit that on the 22nd of February this year, at New

Brighton, you alone, or with others in a concerted action, stoned the administration buildings of the Ciskei Government at Block 51, Avenue A, New Brighton, or do you deny this allegation? -- I admit having stoned that house, your Worship.

And also, set this building alight. -- Yes.

And that this building was, in fact, destroyed by fire. -- Yes your Worship.

Do you admit or deny that on the same date you alone or with others stoned the Dutch Reformed church building and thereby breaking ten window panes? -- I don't deny that. (10)

And that you alone or with the others attempted to set the Dutch Reformed church building alight? -- We did not attempt to set the building alight, we only stoned the building.

And that on the same date, do you admit or deny that you alone or with the others, stoned, incidentally the Court didn't say that you did set it alight, attempted to set the building alight, the building of the Dutch Reformed church. -- We attempted to set the building alight. (20)

That is what the Court said. And thirdly, in the third instance, do you admit or deny that you alone or with the others stoned the house of Mr. Tyalite at 154 Dulumbo Street, New Brighton? It is alleged that this house was also set alight and that a portion of it was burnt. -- Yes I admit.

Both the stoning and the setting alight? -- We set it alight, Worship. It was not totally burnt, your Worship. (30)

No, that is correct, only a portion of it was/.....8

was burnt. -- We did not see it when it got burnt.

Do you admit that you and the others stoned the house and set it alight? -- Yes your Worship.

COURT TO ACCUSED NO. 3:

Accused No. 3, do you admit that you, or do you deny that you, alone or with others, on the 22nd of February this year, stoned the buildings of the, the administrative buildings of the Ciskei Government at Block 51, Avenue 1, New Brighton? -- I admit, your Worship. (10)

And that you, alone or with the others, set this building alight and that it was destroyed by this fire? -- Yes, it was set alight, we set it alight, your Worship.

The next, do you admit or deny that you alone or with the others, stoned the building of the Dutch Reformed church? -- Yes your Worship.

Resulting in ten window panes being broken? -- Yes your Worship.

And that you, or in concert with others, attempted to set the building of the Dutch Reformed church(20) alight? -- Yes your Worship.

Then finally, that you alone or with the others, stoned the house of Mr. Tyalite at 154 Dulumbo Street, New Brighton? -- Yes, that is correct your Worship.

And set this building alight, as a result of which part of it was damaged? -- That is correct.

COURT TO ACCUSED NO. 4:

Accused No. 4, do you admit that on the 22nd of February, 1978 you, alone or with the others, acting in concert, stoned the administrative buildings of the Ciskei(30) Government at Block 51, Avenue 1, New Brighton? -- Yes we

stoned that house.

And set it alight? -- Yes your Worship.

As a result of which it was destroyed by the fire. -- Yes your Worship.

And also stoned the Dutch Reformed church building as a result of which ten window panes were broken? -- Correct.

And attempted to set this said building alight? -- Yes your Worship.

And finally, stoned the house of Mr. Henry (10) Tyalite at 154 Dulumbo Street, New Brighton? -- Yes your Worship.

And set it alight, as a result of which portion of it was burnt? -- Your Worship after I had thrown stones at this house I ran away, leaving the three accused, that is accused no. 1, 2 and 3 behind and later I learnt that the house got burnt.

COURT TO ACCUSED . . . :

Now, accused no. 1, did you have any authority to commit any of these acts? . . . (20)

ACCUSED NO. 1: No.

COURT: Number 2?

ACCUSED NO. 2: No.

COURT: Number 3?

ACCUSED NO. 3: No.

COURT: Number 4?

ACCUSED NO. 4: No.

COURT TO ACCUSED NO. 2:

Now, accused no. 2, are you in a position to show that your actions did not produce any of the following (30) effects, to cause or promote general dislocation, disturbance,

or disorder, to cripple or seriously prejudice any industry or undertaking or industries or undertakings generally or the production or distribution of commodities or foodstuffs at any place. Thirdly, seriously hamper or deter any person from assisting in the maintenance of law and order, cause, encourage or further an insurrection or forcible resistance to the Government. Fifthly, to further or encourage the achievement of any political aims including the bringing about of any social or economic change in the Republic. Sixthly, to cause serious bodily injury or to (10) seriously endanger the safety of any person. Seventhly, to cause substantial financial loss to any person or the State, Eighthly, to cause, encourage or further feelings of hostility between different sections of the population of the Republic. Ninthly, to seriously interrupt the supply or distribution at any place of light, power, fuel or water or of sanitary, medical or fire extinguishing services. Tenthly, and finally, to embarrass the administration of the affairs of the State. Are you in a position to show that your actions did not have any of these (20) effects? -- No, I'm not in a position to say that.

Did you understand these ten effects which the Court enumerated to you? -- Yes, I understand.

COURT TO ACCUSED NO. 3:

Accused No. 3, did you listen to these effects of the actions which have been enumerated to accused nos. 1 and 2? -- Yes your Worship.

Are you in a position to show that your actions were committed, or were not committed with the intent to produce any of these effects? -- No, I'm not (30) in a position.

And do you understand the ten effects which have been enumerated? -- Yes.

COURT TO ACCUSED NO. 4:

Accused no. 4, did you follow and understand these ten effects which were enumerated? -- Yes your Worship.

Can you show that what you did was not committed with the intent to produce any of these effects? -- I cannot, no I am not in a position.

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(10)

COURT: Mr. Jackson, I realise that you have withdrawn and at this moment are not officially involved in this case, but you have been present, you did appear for two of the accused at the outset. Can you help the Court in any way?

MR. JACKSON: Your Worship puts me in a very difficult position. I don't know, at this stage as I stand here now, having heard your Worship read out the various sections of the Act to the accused, I am unable to judge, giving my own personal opinion for what it's worth, to what extent these accused before your Worship have been able to understand (20) the provisions of Section 2 sir, in particular.

COURT: I can't put it in plainer words (interruption)

MR. JACKSON: I realise that, sir (Interruption)

COURT: (SIMULTANEOUS TALKING) if they were English speaking I could perhaps put it in lay terms than what it is in the Act, but I can't do that for fear it gets distorted through interpretation.

MR. JACKSON: Yes, I do see your difficulty there, sir. I don't know what to suggest in the circumstances sir. I haven't cast my mind on it at present as to what the posi-(30) tion is sir. All I can reiterate sir, is from instructions

I had originally, where, if I may say that I went through that Section with them in colloquially more lay terms than the Act provides, that I did not get the same response. That's about as far as I can take it sir, but I must admit that I used very colloquial language to them in trying to explain the meaning of each individual part of that section. I think sir, with respect, that most of that section is, the wording of that section, is way above the intelligence quotient of accuseds 2 and 4 who I have conversed with. I don't know about the other two accused (10) but I think it's way above them sir, I think they are about Std. V pupils or less sir, and it may well be above them to understand these various...

COURT: Thank you Mr. Jackson. Accused no. 1, are you prepared to tell the Court why you committed these acts?

ACCUSED NO. 1: I know of no reason why I did that, your Worship.

COURT: Not really assisting the Court. Accused no. 2, are you prepared to tell the Court why you committed this (20) act?

ACCUSED NO. 2: No I am not prepared, I am not in a position to tell the Court.

COURT: No. 3?

ACCUSED NO. 3: I am not prepared.

COURT: No. 4?

ACCUSED NO. 4: Your Worship, it is because that it was said that if we did not commit these offences, it will be alleged that we were also involved in these offences. It was said that if we do not commit these offences it will be (30) alleged, it will be said that we also partook in the

committing these offences.

COURT: Does the Court understand you correctly that somebody threatened you to do this?

ACCUSED NO. 4: Samson said to us that if we do not go along with him and throw stones at these places, he will say that we were also present when the stoning of these houses took place.

COURT: Mr. Prosecutor, I'm afraid I don't understand this position at all now.

PROSECUTOR: It's twenty past four, sir, I suggest the (10) Court adjourns at this stage till tomorrow.

MR. JACKSON: Just one aspect sir. Your Worship will see, officially I have withdrawn from the matter, but your Worship will see in the, or your Worship wont see at this stage because the statements have not been handed in yet, but in the statements that will be handed in, as far as (interruption)

PROSECUTOR: Your Worship, I object to Mr. Jackson placing anything further on record sir. Either he appears or he doesn't appear. (20)

MR. JACKSON: We're not (interruption)

PROSECUTOR: He can't place evidence before the Court that the State hasn't produced. If he wishes to produce evidence sir, he will have his turn to do so. I object to this procedure.

MR. JACKSON: I wonder if my learned friend wouldn't perhaps think, sir, that I am an officer of the Court as well and that I'm not (interruption)

PROSECUTOR: No, I don't think so.

MR. JACKSON: (SIMULTANEOUS TALKING) I'm making an observa-(30) tion merely as an outsider as your Worship has yourself asked

me on an occasion earlier in this particular matter, also I have something else to say which goes to the roots of this particular matter in regard to the postponement until tomorrow sir.

COURT: What is that, Mr. Jackson?

MR. JACKSON: And that is sir, that as I've already indicated to your Worship earlier, depending on what transpires in regard to the accuseds' plea, I may still be in a position to assist the accused in terms of my original instructions, only sir, tomorrow is not a suitable date. Also sir, (10) what I was going to clear up before my learned friend interrupted, which I wont take any further, was an answer to the question which you yourself posed to my learned friend in regard to not understanding this last allegation which was made by accused no. 4 sir.

PROSECUTOR: Yes well, I think I'm quite able to address the court on that, when the time comes for me to do so, but I object to the procedure, sir, that the attorney withdraws from a matter, then addresses the Court and then wishes to place some evidence before the Court which isn't (20) part of the record as yet. Either Mr. Jackson appears or he doesn't appear.

COURT: Well, the position is that, at this stage the Court doesn't know what the pleas of the accused are, and if the pleas are not in accordance with Mr. Jackson's instruction, then he will not be appearing. If they are in accordance with his instructions, then he will be appearing, consequently the case is then postponed until tomorrow.

CASE POSTPONED UNTIL 31/3/78.

(10)

COURT RESUMES ON 31/3/78.

COURT TO ACCUSED NO. 4:

Accused No. 4, when the Court adjourned yesterday afternoon, the Court understood you to say that you were influenced or something made you do this, is that correct? -- That is correct, your Worship.

In fact, the Court understood you to say Samson influenced, if the Court recalls correctly, you used the word "us"? -- That is correct, your Worship.

Who is "us"? -- I was referring to accused no. 2 and 3 your Worship. (10)

Two, three and yourself? -- Yes, your Worship.

Does the Court understand you correctly that if it wasn't for what Samson did, you wouldn't have committed this offence? -- Yes your Worship.

Who is Samson which you refer to? -- Accused No. 1, your Worship.

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COURT: After questioning the accused in terms of Section 112, the Court is not satisfied that the accused are in fact guilty of the main charge to which they have (20) pleaded guilty and consequently pleas of NOT GUILTY will be recorded in respect of all four accused. The accused also pleaded guilty to the alternative charge, which is one of arson and in order to establish whether the accused are in fact guilty, the Court wishes to put questions to the accused in respect of that alternative charge. The alternative charge, do the accused understand this charge of arson? Accused no. 1?

ACCUSED NO. 1: Yes, your Worship.

COURT: Two? (30)

ACCUSED NO. 2: No, I do not understand the charge, your

Worship./.....16

Worship.

COURT: The charge reads that on or about the 22nd of February this year, and at New Brighton, accused wrongfully and unlawfully set fire to the administrative building of the Ciskei Government, the house of the Dutch Reformed church, belonging to the Dutch Reformed church or to Wilson Xaba, and the house of Mr. Tyalite, with the intention of damaging these buildings and with the intent to prejudice the owners in their property. Do you understand that, accused no. 2? (10)

ACCUSED NO. 2: Yes.

COURT: What did you not understand about this charge yesterday?

ACCUSED NO. 2: I did understand the charge yesterday as well, your Worship.

COURT: And accused no. 3, did you understand the charge yesterday?

ACCUSED NO. 3: Yes your Worship.

COURT: And no. 4?

ACCUSED NO. 4: Yes. (20)

COURT: And do you grasp and understand the various allegations in this charge, No. 1?

ACCUSED NO. 1: Yes your Worship.

COURT: Do the accused then admit that on the 22nd of February at New Brighton the accused wrongfully, unlawfully and intentionally set fire to and set on fire these three buildings, that is the administrative offices of the Ciskei Government, the house belonging to the Dutch Reformed church or Wilson Xaba, and the house of Henry Tyalite?

ALL FOUR ACCUSED ANSWER: Yes (30)

COURT: And that when you did this, you intended

setting/.....17

setting alight and damaging it with the intent to prejudice the owners in their property?

ALL FOUR ACCUSED ANSWER: Yes.

COURT: The Court is satisfied that the accused understand this charge and that they are in fact guilty and that the plea is in accordance with the answers to the questions. The pleas then, will be recorded as NOT GUILTY by all four on COUNT 1, but GUILTY to the alternative charge.

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(10)

DISCUSSION REGARDING REMAND AS MR. JACKSON IS NOT AVAILABLE.

TODAY.

CASE IS POSTPONED TO 3/4/78

CASE RESUMES ON 3/4/78.

MR. JACKSON: Your Worship, at this stage, if I'm correct in my understanding of the proceedings, the charges have been put to the accused and your Worship has entered various pleas in respect of the charges. As I understand the position in respect of accused nos. 2 and 4 they have pleaded not guilty on the main count but guilty to the alternative (20) count of arson.

COURT: That is right.

MR. JACKSON: Well sir, in terms of Section 115 of the Criminal Procedure Act and in terms of my instructions in this matter, the accused 2 and 4 will deny that on the night in question in the charge sheet, that they attended those particular places and set fire to the particular places mentioned in the charge sheet. I understand sir, of course, that that is contrary to the admissions that they have made in respect of the alternative, but those are my instructions (30) sir, and as far as Section 115 is concerned, I can't take

the matter any further.

COURT: Mr. Jackson, can you advise the Court whether these instructions are contrary to your instructions as they were at the previous hearing?

MR. JACKSON: Yes sir, these instructions are contrary to what (was of course) given to me at the previous hearing and these latter instructions have been given to me in the presence of the parents of the accused, sir. I would ask your Worship, in terms of the act and as far as I'm concerned, just to get that confirmation from the accused(10) please sir.

COURT: The accused are fifteen years of age, only their parents may be present at the trial. Accused Nos. 2 and 4 your legal representative has advised the Court that you have instructed him differently today as to what you did previously and that you now, yes Mr. Jackson?

MR. JACKSON: Having regard to their age sir, this confirmation which your Worship is now (NOISE) asking them for, if your Worship wouldn't also obtain it from the parents of accused nos. 2 and 4 who were present when I was (20) instructed sir, because they are juveniles.

COURT: Mr. Jackson, do they now deny that they had anything to do with the offences?

MR. JACKSON: Yes sir.

COURT: The main and the alternative?

MR. JACKSON: Yes sir.

COURT: Accused no. 2 and 4, your legal representative advises the Court that you today deny that you took part in any of these offences, that is the main and the alternative charge. Is that right? (30)

ACCUSED NOS. 2 and 4 ANSWER: Yes.

COURT: The parents of nos. 2 and 4? Is that correct?

INTERPRETER: Yes.

COURT: Yes Mr. Prosecutor?

PROSECUTOR: Your Worship, is the position now that the admissions that accused 2 and 4 made in terms of Section 112 are no longer on record?

COURT: They're on record.

MR. JACKSON: If I may be of assistance as I see it sir, the admissions are on record but the issues admitted in (10) terms of those admissions are now in dispute in terms of the accuseds' instructions, obviously sir in terms of Section 115 now, what they said in regard to the main count.

PROSECUTOR: Your Worship, but the position is that in terms of Section 113, the admissions made by the accused when questioned in terms of 112 are admissible and the State doesn't have to prove those admissions by way of evidence, unless the admissions were made under certain circumstances as set out by Section 113.

MR. JACKSON: Isn't that something that your Worship will (20) have to decide later sir, not at this stage. I have no objection if the admissions stand in regard to the alternative count in which they were made, but surely then your Worship will be in a position to judge later on in the trial having regard to what your Worship hears, which part of 113 may or may not apply.

COURT: I don't understand, Mr. Jackson, the admissions in respect of the alternative charge?

MR. JACKSON: Yes sir.

COURT: Do the accused deny those admissions as well?(30)

MR. JACKSON: Yes sir. But they have been made. Whether they

deny them now or not sir, I don't know how relevant that is, they have been made and your Worship must eventually attach whatever importance sees fit in regard to the rest of the evidence. I think what my learned friend is enquiring about sir, is really this, I may be mistaken, he can correct me if I'm wrong sir. He has got certain admissions on record in terms of the alternative charges, sir. Does that mean, he asks now, that those admissions stand and must he now prove the issues contained in those admissions. Now if those admissions stand, surely then (10) they can only stand in regard to the alternative, not on the main count.

PROSECUTOR: No, that is not the correct position sir. The position is that the accused made admissions, also on the main count.

COURT: And on the alternative.

PROSECUTOR: And on the alternative count, but because accused no. 4 raised the question of influence to commit the offence and because accused no. 1 alleged that he had a defence as to the intent required by count 1, the Court (20) noted a plea of not guilty, but even that being the position sir, the admissions made in terms of Section 112 on the main count, remain admissions which the State does not have to prove by way of evidence. Now the State is placed in this position sir, that unless the State knows exactly what weight is to be attached to the admissions made by the accused, that surely sir, will determine what evidence the State will place before the Court in the trial.

MR. JACKSON: Well, that is obviously a point that my learned friend makes, because he must know how he must proceed with (30) the matter. The difficulty as I see it sir, this is quite

novel to me, I've never in terms of the new section had a matter where this type of thing has occurred in regard to their pleading, but if one looks at Section 113 very carefully, it does appear that Section 113 does make some type of provision for this type of situation arising (as I said) if the Court at any stage of the proceedings, under Section 112 and before sentence is passed, is in doubt whether the accused is in law guilty of the offence to which he has pleaded guilty, or is satisfied that the accused did not admit an allegation in the charge, or (10) that the accused has incorrectly admitted any such allegation or that the accused has a valid defence to the charge, it is obviously here that they deny that they were there, the Court shall record a plea of not guilty and require the prosecutor to proceed with the prosecution provided that any allegation other than the allegation referred to above, and that's the one where he says "satisfied the accused did not admit an allegation or has admitted it incorrectly", provided that isn't the case, that allegation can stand as proof. Now here is this position where the (20) accused says, "I don't admit that allegation that I admitted the other day". It was incorrectly admitted. Surely then my learned friend is in a position that he has to prove those allegations now in terms of Section 113. That's how I see it, with respect sir.

COURT: I'm inclined to agree with the defence that all the matters are placed in issue.

PROSECUTOR: Your Worship, can I just have a short adjournment to consider this point, I'd like to address the Court further sir. (30)

MR. JACKSON: There is one further aspect I may raise for

my learned friend's benefit. Of course, those instructions are only in respect of 2 and 4 sir, 1 and 3, in respect of their admissions or what they've done is not affected by my instructions.

COURT: Yes, obviously.

COURT ADJOURNS.

COURT RESUMES.

PROSECUTOR ADDRESSES THE COURT.

MR. JACKSON ADDRESSES THE COURT.

--oOo--

(10)

COURT: At the previous hearing, that was on Friday the 31st of March, the Court was in doubt as to whether the accused were guilty in law of the main charge and consequently recorded a plea of not guilty in respect of all four accused. The Court is not satisfied that any admissions were incorrectly admitted, consequently, in terms of Section 113, the admissions made by the accused at the previous hearing shall stand as proof of those admissions.

--oOo--

(20)

EVIDENCE FOR THE STATE:

ELLIOT LILO ROQOZA duly sworn states.

EXAMINATION BY PROSECUTOR:

You are the representative of the Ciskeian Government in the Eastern Cape? -- Correct, your Worship.

Is it correct that you rent a house at Block 51, Avenue A, Site & Service here in Port Elizabeth from the Bantu Administration Board? -- In New Brighton, your Worship.

COURT: What is the address? -- Block 51, Avenue A. (30)

PROSECUTOR: New Brighton? -- New Brighton.

What does this building consist out of, how many rooms? -- About eight rooms, eight rooms.

Eight rooms. And is it correct that you use this building partly as an office and do you also live in that building? -- Correct, your Worship.

And what did you have in the building on the 22nd of February, this year? -- Two beds in two bedrooms, beds and mattresses as well as blankets and all my clothes.

And other furniture? -- Fourteen chairs in the waiting room. (10)

Yes? -- All cutlery in the kitchen as well as groceries and the kitchen chairs your Worship, plus kitchen units and a table. Steel cabinets were in the two offices your Worship. About four steel cabinets in my own office and two steel cabinets in the office of the clerk, my two clerks. There were forty files in these two steel cabinets.

And what did you use these files for? -- Government documents were in those files as well as the documents of all the magistrates in the Eastern Cape. (20)

Yes? -- As well as the documents of the Information Department and the Labour Department and the Ciskeian correspondence your Worship, of all the Eastern Cape, as well as the correspondence from the Chief Bantu Affairs Commissioner from Queenstown, as well as the documents from the Cape Midlands Bantu Administration Board and the Eastern Cape Bantu Administration Board.

And over how long a period did these documents refer to? -- A period of about four years when the offices were built up, your Worship. (30)

Now Mr. Roqoza, is it correct that approximately,

five days before the 22nd of February this year, did you lock the doors and secure the windows of the premises? -- Correct, your Worship.

When you left, was everything in order? -- Yes your Worship.

And did you keep the key in your possession? -- Yes your Worship, but my clerks have their own key to the main door, your Worship.

And is it correct that on the 22nd of February 1978 did you receive a report in connection with the offices? -- Yes, your Worship. (10)

And did you return to Port Elizabeth? -- Not immediately your Worship, because I was in routine work in Barkly East.

COURT: Where? -- Barkly East your Worship.

PROSECUTOR: And approximately how long after you received the report did you return to Port Elizabeth? -- About five days thereafter.

And did you go to the building, your offices? -- Yes your Worship. (20)

And what did you discover on your arrival? -- The whole house was burnt, your Worship. The floors of all the rooms, as well as the ceiling of this building were burnt and the ceilings were hanging.

And the property that you had left there? -- All my clothes as well as all the documents I have mentioned as well as the furniture was burnt, your Worship.

Completely burnt out? -- Completely burnt out your Worship, only the wrecks of the steel cabinets that could be seen, your Worship. (30)

And what is the approximate amount of damage that/.....25

that you sustained? -- My own property, about R500. The property of the Government, about R1200 your Worship.

Mr. Roqoza, what effect did this have in your work and how does it affect your Government? -- Very bad your Worship, I cannot work at this moment your Worship. My two clerks are being paid by the Government but we have no place to work, your Worship. I am now temporarily staying in the hotel and the Government has to pay. All the people who want advice go to the Ciskei, they go to the office but they can't get any help, any assistance. (10) The Ciskeian Government have got an accumulation about this your Worship, and they have no place for me to stay.

Is it possible for you to recompile all these documents that you had in the building? -- It would take about four to five years, your Worship. I have forgotten something, your Worship, about a thousand citizenship cards are also burnt, your Worship. They were already approved from the Pretoria.

Are these people who applied for citizenship of the Ciskei? -- Yes your Worship. And there were about (20) 500 application forms, application for citizenship cards your Worship, they were to be despatched to King Williams Town for their approval. They were also burnt.

Have you any other records as to the citizen cards that you refer to? -- We have no record to trace the applicants your Worship, we are in trouble. It is also difficult for us to trace the applicants of the compensation your Worship, because we have no records, as well as the Unemployment Insurance Fund.

Mr. Roqoza, when you returned to the building, (30) did you find any strange objects apart from your burnt

property, in the building? -- Your Worship I am not sure but I saw some stones there in the building.

In what state was the window panes of the building? -- They were all wrecks your Worship.

NO FURTHER QUESTIONS.

COURT: Accused no. 1, are there any questions he wishes to put to this witness? The position is that if this witness has told lies to the Court or if the accused do not agree with the evidence which he has given, it is their duty to question, to cross-examine this witness by (10) putting questions to him in respect of those aspects of his evidence with which they do not agree. Accused no. 1, do you understand?

ACCUSED NO. 1: Yes your Worship.

COURT: No. 3, do you understand.

ACCUSED NO. 3: Yes your Worship.

CROSS-EXAMINATION BY ACCUSED NO. 1: NO QUESTIONS.

CROSS-EXAMINATION BY PARENTS OF ACCUSED NO. 1: NO QUESTIONS.

CROSS-EXAMINATION BY MR. JACKSON:

Mr. Roqoza, when was the Ciskei granted (20) independence? -- No your Worship, it has not granted independence.

So when you talk about "our Government", who are you referring to? -- Ciskeian Government.

The Ciskeian Government is not an independant Government? -- No your Worship. (Witness, not in microphone, says: Ciskei is a self governing territory, not independant.)

Self governed territory, not independant and still subject to the Government of the Republic of South Africa. -- It is. (30)

And as such, do the persons living in the

Ciskei still form subjects of the Republic of South Africa? -- They don't.

They don't. I see. So are these persons then citizens of the Ciskei not registered in Pretoria at all? -- Not the citizens of Ciskei. They might be registered for some purposes in Pretoria. I don't know.

Well then don't say no if you don't know. Either you know or you don't know. If you don't know, then say so. So they may be registered in Pretoria, you don't know? -- I don't know. (10)

Any of the documentation that you lost, do you know whether any of those documents, whether replicas or copies of those documents are kept by Central Government in Pretoria? Do you know? -- I don't know.

You don't know.

NO FURTHER QUESTIONS.

CROSS-EXAMINATION BY ACCUSED NO. 3: NO QUESTIONS.

CROSS-EXAMINATION BY PARENTS OF ACCUSED 3: NO QUESTIONS.

RE-EXAMINATION BY PROSECUTOR: NO QUESTIONS.

--oOo--

(20)

ADAM DELAREY CALITZ verklaar onder eed.

ONDERVRAGING DEUR AANKLAER:

Mnr. Calitz, u is in diens van die plaaslike Bantu Administrasieraad? -- Heeltamal reg.

In watter hoedanigheid? -- Assistant Superintendent.

Is dit korrek dat u die gebou wat gelaë is te Blok 51, Laan 4, New Brighton, besoek het nadat dit deur brand beskadig was? -- In watter straat was dit gewees?

Laan 4, dit is die gebou wat die Ciskei Regering van u. hatur.-- O ja, ja, dis reg. (30)

Wat se skade het u aan die gebou aangestref?

-- Wel ek dink die, hy het baie beskadig, die vuur.

Ja? -- Die dak, "ceiling", party van die mure en die vloere ensovoorts, deure.

Kan die gebou herstel word? -- Ja, dit kan herstel word.

Wat sal die koste baloop? -- Ek reken omtrent so R8000 (agttuisend).

Wat is die waarde van die gebou indien dit in goeie toestand is? -- Wel ek sou skat so twaalf, vyftien(10) duisend rand.

GEEN VERDERE VRAE.

KRUISONDERVRAGING DEUR BESKULDIGDE 1: GEEN VRAE.

KRUISONDERVRAGING DEUR MOEDER VAN BESKULDIGDE 1: GEEN VRAE.

KRUISONDERVRAGING DEUR MNR. JACKSON : GEEN VRAE.

KRUISONDERVRAGING DEUR BESKULDIGDE 3: GEEN VRAE.

KRUISONDERVRAGING DEUR MOEDER VAN BESKULDIGDE 3: GEEN VRAE.

--oOo--

WITSON XABA duly sworn states.

EXAMINATION BY PROSECUTOR:

(20)

Are you attached to the Dutch Reformed Church in New Brighton? -- Yes:

In what capacity? -- I am the minister in charge.

Where is the church in New Brighton? -- It's in Pendlia Street.

New Brighton? -- Yes.

And is your house also situated on the same premises as the church? -- The mission house is also in the same premises.

On the 22nd of February this year, at approximately 10 p.m., where were you? -- I was in the house.

Who/.29

done to your house? -- It's almost R25, the putting of the window panes.

And when these stones were thrown at your house, what did your wife and children do? -- Well, we ran away to the sitting room and the girls were in the kitchen, when the petrol came into the kitchen they ran away through the front door.

Were any of your family sleeping at the time?

-- No, not one, they were all up.

Do you know any of the accused at all? -- Yes,⁽¹⁰⁾
I know that tall one, the second one, he is my opposite.

Accused no. 2? -- Yes.

Does he live opposite your house? -- Yes in front of, my front, he is opposite in the same street, he is looking at my house.

Do you know of any reason why anybody would attack your house? -- No, I know of nothing.

Have you ever had any trouble before with accused no. 2? -- Not at all, he is a very humble boy as far as I see him in his house, at his place there. (20)

And this house also belongs to the Dutch Reformed church? -- Yes, it's a mission house.

Were any of your family injured at all? Any of the family, were they injured at all, or not? -- No, not one.

NO FURTHER QUESTIONS.

COURT: Do you know the offices of the Ciskei Government at Block 51, Avenue A? -- Yes, I know them.

How far is it from the church where you live?-- Almost a kilometre. Maybe further by foot, it's a (30) kilometre by car.

CROSS-EXAMINATION BY ACCUSED NO. 1: NO QUESTIONS.

CROSS-EXAMINATION BY MOTHER OF ACCUSED NO. 1: NO QUESTIONS:

INTERPRETER: Mother has no questions to put to the witness, she says that she knows nothing about this evidence.

CROSS-EXAMINATION BY MR. JACKSON:

Mr. Xaba, how long have you been staying at that Mission House in Penda Street? -- It's a year nine months now.

And during that time, have you become acquainted with accused no. 2 and his people? -- Yes, I'm acquainted with the parents, the mother, because we are neighbours. (10)

I see. Now, you said that accused no. 2 impresses you as a humble boy? -- I know him so.

Now, on what do you base that opinion? On your seeing him, speaking to him or generally seeing him around (interruption) -- No, I never talked to him I just saw him sit at home there, the person I used to speak to is the mother.

I see. And does he impress you as a quiet-natured boy? -- Yes, he is very quiet. (20)

You have a child of sixteen, is that correct? -- Yes.

And what is the age of the next youngest, after sixteen? -- Younger than sixteen, he's twelve.

Twelve. Do you know if accused no. 2 plays with any of those children, or is friendly with any of those children? -- Yes, with this one of sixteen I think they are, they do play together.

I see. Would it be correct if I were to put to you that you would be surprised if accused no. 2 should harbour any ill-feelings towards you or your family or

your church? -- I would be surprised, even my boy would be surprised.

Now, on this particular evening you said after you had heard the stones, at some stage you went and looked out to see if you could see who had caused the trouble there, is that right? -- Yes, I went through the front door.

Did you see anyone? -- Well I saw some people far, a little bit far, running away, tall boys, not these kind, this is a small boys. (10)

I see. -- There were about two.

There were about two. -- Running towards the school, Masangwane School, and then they turned in the darkness.

How far away were these boys when you saw them for the first time? -- Which?

These boys that were running away? -- How far were they?

Yes, from you? -- Well, they were about fifty yards away. (20)

I see, so you were able to see their height reasonably well? -- Their height, that's right.

And you would say, from what you saw, that they were much taller and bigger boys than these before the Court at present? -- They should be as tall as this gentleman sitting down here.

The gentleman is about 5'10". So from what you saw of the people running away you could say with certainty that it didn't appear to be any of these four accused before Court today? -- I don't believe so. (30)

You don't believe so.

NO FURTHER QUESTIONS.

CROSS-EXAMINATION BY ACCUSED NO. 3: NO QUESTIONS.

CROSS-EXAMINATION BY MOTHER OF ACCUSED NO. 3: NO QUESTIONS.

RE-EXAMINATION BY PROSECUTOR:

Mr. Xaba, are there street lights near your house? -- In front of my house, in Pendla Street, but in the back there is a swimming bath and a Roman Catholic church and a school, it's dark. I've been pleading with the Bantu Administration Board to put light there. They never responded. (10)

And the two boys whom you saw running, did they run away from your house, were they running in the street or where were they? -- Away from the house towards that school and then they turned, when they were next to the school they just turned to the street so, and at the back of my garage there the barbed wire there was cut, and there was also a sprinkling of petrol which seems that it splashed there when they were coming in.

Is that the street where there are no lights?

-- Yes. (20)

And these two boys that you refer to, were they still on the church premises or (interruption) -- No, outside altogether, in the veld.

NO FURTHER QUESTIONS.

---oOo---

HENRY MABANDLA TYALITI duly sworn states.

EXAMINATION BY PROSECUTOR:

Mr. Tyaliti, you are a teacher here in New Brighton? -- Yes your Worship.

And you reside at no. 154 Dulumbo Street, (30) New Brighton? -- Yes your Worship.

On the 22nd of February 1978 approximately 11 p.m. were you in the house? -- Yes your Worship.

And were you alone in this house? -- No, your Worship, I was asleep with my wife and three children.

How old are your children? -- The eldest is 12 years, the second eldest is 10 and the youngest is 7 years old.

Did anything wake you? -- Yes, I was awoken by stones on the roof of my house.

What did you do then? -- I beg your Worship? (10)

What did you do then? -- I woke up your Worship, and after having got up went out and I met a young boy, he was outside in the opposite yard and then he told me there were boys who came out (interruption)

Did he make a report to you in connection with people who had been at your house? -- Yes your Worship.

Did you see anything else that took place at your house? -- I didn't see it happen but when I got outside there was a lot of petrol fumes from the door, your Worship, and when we went to the back he said something was thrown (20) at the back, there was (interruption)

Before you continue, which door are you referring to when you got the petrol fumes? -- The front door was the one from which the petrol fumes came out.

And was there any damage done to the door? -- Not to the front door, your Worship.

Did you see any liquid at the front door? -- No, it was not wet.

And where do you suggest you got the fumes from? -- The fumes had seeped, I think, underneath the (30) door and there was a carpet which must have sucked up some

of the patrol.

And you say you then went back to the back door? -- Yes your Worship.

And what did you discover there? -- There we saw pieces of a bottle that were blackened and the back door was blackened completely.

So were there indications that it had burnt or is that the colour of the door? -- No, it was scorched your Worship.

What did you do then? -- I then went for a (10) little hand axe which I have and went through the gate to the young lad who said the boys had jumped in the lane. We went round the corner to that lane and five or six boys crossed the street into an opposite lane and the last one to come out of the lane we then stopped.

Who was this person? -- It is one of the accused your Worship, I don't know which number, the one at the extreme left.

Accused no. 1? -- Yes your Worship.

And is it correct that after questioning (20) accused no. 1, did you arrest him? -- I wouldn't say I arrested him your Worship, we talked to him and questioned him and he couldn't answer our questions satisfactorily.

What did you ask him? -- We asked him first what he was doing there at that time of the night, then he said his big brother had sent him. I then asked him who the boys were who had just run out of the lane from which he was coming and he said he didn't see anybody.. I then asked him where his brother was who had sent him (inter-
ruption) (30)

Just before you continue with that, when

accused no. 1 told you that he didn't see anybody running, did you accept that? -- No, it was one of the first things which I didn't accept.

Why not? -- Because they were just ahead of him, it was hardly ten yards ahead of him. We had not yet reached the lane when they went out there and he was a little behind them.

And how did he come out the lane, walking (interruption) -- He was also coming out of the lane.

But how did he come, walking or running? -- (10)
He was not really running, he was just walking briskly.

Yes, so then you asked him about the elder brother who he alleged had sent him? -- Yes your Worship. Then I said to him, "O.K., let's go to your brother and find out if he has really sent you", and when we got there his brother was asleep. We woke him up and asked him whether he had sent this young lad.

Where was the accused then? -- He was with us.

He was present when you spoke to his brother?
-- Yes your Worship. (20)

And what did you ask the brother? -- I wanted to know if he had sent him and then he said no, he had sent him about 7 o'clock in the evening, and when I asked him whether he was aware that it was close to midnight, very late, he still said "No, I don't know, I sent him long ago."

And did you then hand the accused over to the police? -- Then I said to the accused, "I feel you have an explanation to make" and from there we walked with him to a place where I thought I was going to 'phone and we met (30)
the police on the way so I told them that (interruption)

Did you then hand the accused over to the police? -- I handed him over.

Now, is it only the door that was scorched at your house? -- The only damage is the door that was scorched your Worship.

And what is the value of that door? -- Well, scraping it and repainting it could come to about say R5.

And the boys that you saw running from the lane, who were ahead of accused no. 1, can you give any estimation as to their size? -- Well they could have been (10) seventeen, eighteen and perhaps younger. It was not very light your Worship.

Do you know any of the accused at all, or did you know them before this incident? -- I know only two facially, others I don't know.

Who are the ones that you know facially? -- At the moment I know the one, number 1 and the young lad in the red jersey, I know his face.

Accused no. 3? -- Yes your Worship.

Do you know of any reason why anybody would (20) attack your house? -- I have no reason why, I don't know your Worship why, except that perhaps I'm a teacher. I don't know.

Why do you say except for the fact that possibly because you are a teacher? -- Because teachers have been threatened you know, told to resign and I personally had received a letter earlier on, and that's why I felt that I perhaps was also in trouble, in danger.

Did you comply with that request? -- No, I didn't your Worship. (30)

NO FURTHER QUESTIONS.

COURT: Did I understand you correctly to say that you did receive a threat? -- Yes your Worship, I did receive a threat.

PROSECUTOR: Your Worship, can I just ask one question before I...?

COURT: Yes.

PROSECUTOR: Thank you sir. Mr. Tyaliti, are you acquainted with the Dutch Reformed mission church in Pendla Street, do you know where it is? -- Yes your Worship, it's not very far from where I stay. (10)

Approximately how far is it from your house?

-- Could be between 100 and 150 yards more or less.

NO FURTHER QUESTIONS.

COURT: When you spoke to the brother of accused no. 1, did accused no. 1 react in any way to the discussion you had with his brother? -- I don't know, your Worship, he was behind me. I was in the door of the shed where he slept and was facing him. The young lad was behind me.

Yes, but now what I mean is, did he say anything when the brother of accused no. 1 said that he had sent (20) accused no. 1 out at 7 o'clock? Accused no. 1 didn't say anything? -- No, your Worship, he didn't say anything.

Or contradict it in any way? -- He said nothing, your Worship.

You say the back door was scorched? -- Yes your Worship.

What caused it to be scorched? -- The explosion of the petrol bomb burning your Worship.

NO FURTHER QUESTIONS.

CROSS-EXAMINATION BY ACCUSED NO. 1: NO QUESTIONS. (30)

CROSS-EXAMINATION BY MOTHER OF ACCUSED NO. 1:

You went to the house of accused no. 1 and you found no others in that house, you found a young boy about his age, you spoke to him. -- The boy I spoke to is older than he is, your Worship.

Yes, it is accused no. 1's elder brother. You spoke to him. You did not come to us and make a report to us. -- Yes your Worship, I did not go to anybody else because he said to me his brother had sent him and so I went to his brother. Unfortunately the lady I don't know, I only met her here at Court. (10)

Yes, we do not know each other, but you were supposed to speak to the parents of accused no. 1. -- Yes your Worship, I think I have done my best, the very first that I went to his so-called elder brother where he stays and talked to him, I feel that I have complied to that particular request, your Worship.

You did not enter the house, you were outside. -- Yes your Worship, this brother of his slept in a shed, it's not in the house, it's in a shed. That is where he took me to sir, I went there. (20)

NO FURTHER QUESTIONS.

CROSS-EXAMINATION BY MR. JACKSON:

Mr. Tyaliti, this boy who made the report to you, do you know him? -- I didn't know his name your Worship, I only learnt it here.

What is his name? -- I heard his name is Jamson.

The one who made the report to you after you heard the stones on your roof? -- Oh, no, his name is Knowledge, he is my front door neighbour your Worship.

He is your front door neighbour and his (30) name is Knowledge? -- That's right your Worship.

Knowledge who? -- Knowledge Nyenga.

Knowledge Nyenga, how do you spell it? --

[?]
N-y-(e)-n-g-e.

How old is he? -- He is 19 years old.

Nineteen years old. And did he tell you how many persons he saw at your house, in that report? -- Yes your Worship, he said to me he had seen about five or so boys jump over the fence into their yard.

He had seen about five boys jump over the fence into your yard? -- Into their yard. (10)

Into their yard? -- From my yard.

Now do his yard and your yard adjoin one another? -- Yes, they are separated by a fence your Worship.

Does the front of your house face the back of his house, or the two houses face front to front or what (interruption) -- Face front to front your Worship.

Front to front. So from what he told you, he had seen five boys jump over the fence into your front yard? -- Into (interruption)

Their front yard from your front yard? -- (20)
That's right, your Worship.

Did he tell you how big these boys were, were they small boys, bigger boys or give you any indication of what type of boys they were? -- He said that they were young boys about his size and some of them were younger.

They were young boys about his size and some were younger? -- Yes your Worship.

How old is he? -- He is 19 years.

How big is he? -- Well I (interruption)

About your height? -- He is a little, little (30)
shorter than I am, more or less.

Would you agree that accused no. 3 and 4, the very least, are considerably shorter than that? -- Yes your Worship.

He said they were boys of about his age or a little younger? -- Yes your Worship.

Would you agree that looking at accused no. 3 and 4 that they look considerably younger than 19? -- They do, your Worship.

They do. Did he name any of the people that he had seen jump over this fence? -- No your Worship. (10)

Did he tell you that he knew any of the people? -- No, he didn't your Worship.

Could he describe any of the clothing worn by the persons who jumped over the fence? -- No your Worship, I didn't ask him that.

You didn't ask him. Was he with you when you saw these boys run out of the lane? -- Yes your Worship.

How far were you from those boys whom you saw at that stage running out of the lane? -- It was less than 20 yards. (20)

Less than 20 yards. What were the light conditions at that stage? Was it reasonably dark, or very dark or could you see people reasonably clearly at that (interruption) -- You could see people but you couldn't see them, who they are.

You couldn't see, let me put it to you this way, you couldn't perhaps see their facial features? -- No your Worship.

But you could see their size. -- You could, more or less, yes, see their size. (30)

And how many boys did you see? -- There were
than/.....41

then about six, your Worship.

There were then about six. And how big were these boys? -- They were about the size of the biggest of these boys, more or less that size.

I see, about as big as accused no. 2? -- Yes your Worship.

Or slightly bigger, would you say? -- Or slightly bigger.

Or slightly bigger. But none of them were the size of accused no. 3 and 4? -- Those were not there. (10)

Those were not there. Now, you say, in answer to my question, you're looking at accused 3 and 4 and you say "they were not there", in other words, from what you saw you are convinced in your mind that it couldn't have been no. 3 and 4? -- When I said "those", I mean those of that size.

Were not there. -- Yes.

There was nobody of that size among the boys you saw coming out the lane? -- I cannot be hundred percent sure but as I said, it was not very light, but I didn't see (20) small boys there.

I see, you describe them, no. 3 and 4 as small boys? -- Yes, they definitely are small.

This boy, Knowledge, did he go with you when you went to accused no. 1's house? -- Yes, your Worship.

And he was with you when you apprehended accused no. 1 as well? -- Yes your Worship.

Did he confirm to you, Knowledge, that in fact accused no. 1 was one of the boys that he saw jumping over the fence before you came out of your house? -- No, (30) your Worship.

He didn't. So he couldn't even say whether in fact the boys that you apprehended, no. 1, was in fact one of the persons that he saw jump over the fence? -- No, he couldn't.

He couldn't say. I see.

NO FURTHER QUESTIONS.

CROSS-EXAMINATION BY ACCUSED NO. 3: NO QUESTIONS.

CROSS-EXAMINATION BY MOTHER OF ACCUSED NO. 3:

The witness has mentioned six boys, your Worship and I see only the four now in Court. I would like(10) to know where are the other two, your Worship?

COURT: Yes, they're probably in custody or somewhere, they'll probably appear tomorrow.

MOTHER: One of them is outside, your Worship, he is not in custody.

COURT: Oh, well then you know where they are.

MOTHER: My sister is outside your Worship, she was supposed to be in Court because she has a child here.

COURT: Aren't you the mother of accused no. 3?

MOTHER: Yes I am, your Worship. (20)

COURT: And who is the child of your sister?

MOTHER: Her child is not in Court, your Worship.

COURT: Are there any questions the mother of accused no. 3 wishes to put to this witness?

NO FURTHER QUESTIONS.

RE-EXAMINATION BY PROSECUTOR: NO QUESTIONS.

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S T A T E C A S E

---oOo---

COURT EXPLAINS RIGHTS TO ACCUSED 1 AND 3: (30)

COURT: Accused nos. 1 and 3 particularly, you are not legally/.....43

legally represented. The position is that that is all the evidence which has been adduced by the State. It is now your opportunity of placing your case before the Court. You may do so by giving evidence, also by calling witnesses. Do they understand?

ACCUSED 1 and 3 UNDERSTAND.

MOTHERS OF ACCUSED 1 and 3 UNDERSTAND.

COURT: On Friday the Court explained the provisions of Sub-section (2) of Section 21 of Act 76 of 1962 and that is that no person shall be convicted of the offence, (10) that is the main charge against the accused, if he proves that the commission of the alleged offence, objectively regarded, was not calculated, and that such offence was not committed with the intent to produce the effects which the Court enumerated to the accused on Friday, or any of them. Do the accused understand?

ACCUSED 1 and 3 UNDERSTAND.

COURT: The Court enumerated these ten effects on Friday, do the accused wish the Court to repeat them?

INTERPRETER: Accused No. 1 does not know, your Worship. (20)

COURT: He doesn't know. The position is that the Court explained to him under what circumstances he cannot be convicted of this offence and those effects were enumerated to the accused on Friday. If they wish the Court to repeat them the Court is prepared to do so now.

INTERPRETER: Accused no. 1 wants it to be repeated, your Worship.

COURT: Accused no. 3?

INTERPRETER: Yes, your Worship.

COURT: Certainly. Those effects are then, firstly, to (30) cause or promote general dislocation, disturbance or

disorder. Secondly, to cripple or seriously prejudice any industry or undertaking or industries or undertakings generally or the production or distribution of commodities or foodstuffs at any place. Thirdly, to seriously hamper or deter any person from assisting in the maintenance of law and order. Fourthly, to cause, encourage or further an insurrection or forcible resistance to the Government. Fifthly, to further or encourage the achievement of any political aims including the bringing about of any social or economic change in the Republic. Sixthly, to cause (10) serious bodily injury to or seriously endanger the safety of any person. Seventhly, to cause substantial financial loss to any person or to the State. Eighthly, to cause, encourage or further feelings of hostility between different sections of the population of the Republic. Ninthly, to seriously interrupt the supply or distribution at any place of the following: light, power, fuel or water or of sanitary, medical or fire extinguishing services. Finally, to embarrass the administration of the affairs of the State.

Do the accused understand? (20)

BOTH ACCUSED UNDERSTAND.

MOTHERS OF BOTH ACCUSED UNDERSTAND.

COURT: Now accused no. 1, are there any witnesses you wish to call?

PROSECUTOR: Your Worship, just before the accused reply to that sir, I have a statement from a person who the State will not call as a witness at this stage sir, and I make it available to the defence. His name is Mpumulelo Ngayi. ^{Mnqayi(?)}

COURT: The Prosecutor has indicated that he has a statement from a State witness whom he does not intend (30) calling as a witness any more and this witness is available

to the accused if they so wish to call him. The name of
the witness is Mpumalelo Ngayi. Do they understand?

BOTH ACCUSED UNDERSTAND.

COURT: Accused no. 1, is or are there any witnesses
accused no. 1 wishes to call?

ACCUSED NO. 1 HAS NO WITNESSES TO CALL.

ACCUSED NO. 1 ELECTS TO GIVE EVIDENCE.

SAMSON MDUSHANE duly sworn states.

COURT: You are accused no. 1, what do you wish to
say? -- We did not burn all the houses, your Worship. (10)

I was walking in the lane when I was apprehended. I was
sent to buy matches. I was accompanied by Siphiso when
I was apprehended by one of the State witnesses, namely
Mr. Tyaliti. Siphiso slapped me, as a result I lost the
2c your Worship. I was taken through Dubula Street your
Worship, came across the police van. The police van
stopped. I was then put into this police van. I was then
taken to the Ciskei house. I saw the house whilst it was
in flame. I was then taken to a certain school your
Worship, technical school, by the police. The police (20)
said I should tell them my friends who used to play with me.
I mentioned the names of my friends. I was taken to the
charge office. The other accused now before Court were
fetched from their houses. They were fetched from their
homes the following day, your Worship. I was taken to
Swartkops. I was kept there. I was taken to the charge
office where I saw the accused now before Court. They
were being assaulted. The police asked me whether they were
my friends. I said yes. The police assaulted me and the
other accused. They said we should admit that we have (30)
burnt, your Worship. I then told the police that they

were with me when we burn, your Worship. Accused no. 3 was asked by the police to make a statement. I was in a separate room. I was taken to join the other accused, your Worship. They admitted that they have burnt. I also admitted. We were first denying, your Worship, we were assaulted. That is all, your Worship.

CROSS-EXAMINATION BY MR. JACKSON:

Samson, where do you live? -- In Pendla Street your Worship.

What number? -- No. 28. (10)

Do you know where accused no. 2 lives? -- Yes I know.

Does he also live in Pendla Street? -- Yes your Worship,

Accused no. 3, do you know where he stays? -- Yes your Worship.

Also in Pendla Street? -- No, in Mcwane Street.

Is that near Pendla Street? -- Yes your Worship, (20)

Accused no. 4, do you know where he stays? -- Yes I know, your Worship,

Now tell me, are these accused no. 2, 3 and 4 friends of your that you play with, or that you go around with? -- Yes your Worship.

Are these people, accused no. 2, 3 and 4, the people whose names you gave to the police when the police asked you who your friends were? -- Yes your Worship.

Now, did the police ask you who your friends were that you play with or were you asked if these were (30) the people who had been with you to burn those places on

that night? -- No, the police asked me for the names of my friends, your Worship, which I did.

I'm just wondering sir, at this particular stage, the matter is supposed to be in camera sir. I don't know if these people sitting in Court are (interruption)

COURT: Well, I don't know if they are either. Only the parents of the accused allowed in Court.

MR. JACKSON: Those people at the back, I don't know who they are.

COURT: Those are the witnesses who have testified, (10) they must remain in Court.

MR. JACKSON: May I ask also that the police be asked to leave the Court, sir.

COURT: Which police?

MR. JACKSON: The Major and the Luitenant sir.

COURT: Only the Investigating Officer may remain. Both the Investigating Officers. Any objection to the Investigating Officers being present?

MR. JACKSON: Well, can I just ascertain from this witness first sir, what, if any of the police who are in Court (20) he alleges hit him at any stage. If it's not these policemen in the allegation then I have no objection sir. Do you see in Court today, any of the policemen that you say slapped you or assaulted you or any of the other accused, at the charge office? -- No, your Worship.

Now, as you stand there today in the witness box, are you in any way frightened of anything? -- No, your Worship.

You're not frightened, o.k. Now, since you were arrested in the incident that you've described to the (30) Court today, have you been out of custody since then or have

you been in custody all the time? -- I was in custody all the time.

And you've been in custody since that night when the teacher, Mr. Tyaliti handed you over to the police? -- Yes your Worship.

And that was Wednesday night, the 22nd of February? -- Yes your Worship.

Now on that night, that night when you were caught in the lane, what had you done earlier that evening? -- I was walking in the lane your Worship. (10)

What time, do you know what time this was when Mr. Tyaliti caught you? -- Yes, it was early in the early hours but it was dark.

Dark. What had you done earlier that evening, before you went to that lane? -- Nothing, your Worship.

Had you seen accused no. 2 and 4 earlier that night? -- No your Worship, I did not see them.

I see. Did you burn any of the places mentioned in the charge sheet in this matter, were you present when any of them were burnt? -- I was not present, your Worship. (20)

Now, you told the Court here on Friday that you admitted being present and having taken part in burning those various places. Why did you tell the Court that on Friday? -- We had been assaulted in the cell once we had denied the allegations against us.

Yes, but the Friday you weren't in the cells, this was a police station maybe but it's not a cell, it's a Court this room, believe it or not. Why did you tell the Magistrate that you admitted burning those things, on Friday? -- We are being assaulted when we arrive there. (30)

When you arrive where? -- At the charge office,

your/.....49

your Worship.

Which one? -- New Brighton.

Yes but now, you left New Brighton charge office and you left the cells wherever you were kept and you were brought here to Algoa Park, the Court, on Friday, and on Friday here you told the Magistrate that you did burn those places mentioned in the charge sheet. Now you are standing in the same room on Monday and you say that you didn't. Now I want to know from you why did you say that on Friday? Were you frightened perhaps? -- Yes, (10) I was frightened, your Worship, I was not used to this Court.

Tell me, how old are you? -- Fifteen years of age.

Do you go to school? -- Yes your Worship.

What standard are you in? -- Std. 2.

Std. 2, I see. Tell me, what month is your birthday in? -- I do not know, your Worship.

You don't know. Do you know what it means if something is "calculated to produce an effect"? Do you(20) know what that means, if a thing is calculated to produce an effect, do you know what that means?

INTERPRETER: I don't follow the question, your Worship.

MR. JACKSON: Mr. Interpreter, do you have difficulty understanding it? Do you understand what it means if something is calculated to produce an effect? -- No your Worship.

Do you know what it means if something is calculated to embarrass the administration of the affairs of the State? -- No, your Worship.

Those are the things that were put to you on(30) Friday, it was read out to you. Do you understand? Did you

hear those things read out to you on Friday? -- Yes I did, your Worship.

And you told the Court you understood them?

-- Yes your Worship.

Tell me something, your education at the moment, beginning of the year now, it's now early April and you were arrested in February, did you do Std. 1 last year? -- Yes.

Were you at school the whole year? -- Yes.

Did you not stop going to school at the time of the unrest? -- I was, your Worship. (10)

Was what? At school? -- I was prevented from attending the school.

You were prevented from attending. When did you stop attending, what month was it? -- August, your Worship.

In August, so your education has really got you as far as August into the year of your Std. 1 year at school? Tell me now, what did you learn at school last year in Std. 1? What things did they teach you there? What language were you taught in, to start with? -- Xhosa.

Were you taught in English or Afrikaans? -- (20) Yes, I was taught, your Worship.

Can you read English? -- No, your Worship.

Can you read Afrikaans? -- No, your Worship.

Are you learning from reading books in Xhosa? -- Afrikaans as well your Worship.

Afrikaans as well. And how far, how many reading books have you completed at school in Xhosa or in Afrikaans? -- One Afrikaans, your Worship.

And in Xhosa? -- One in Xhosa.

Now that book in Xhosa, I take it Xhosa, (30) before I go any further, Xhosa is your home language? --

-- Yes, your Worship.

This book in Xhosa, this reading book, what sort of stories are in the book, tell us, what are the names of some of the stories in that book? -- "Mbovana and Nqwakwe", that means "An ant and a boy", your Worship.

I see. An ant you say? -- Yes.

An ant and a boy. And the words that are in that book that you've learnt, are those words that you've learnt to read at school? -- Yes. (10)

Did you learn your alphabet at school, A, B, C, right to Z? -- Yes your Worship.

And you learnt that at school, not at home? -- At school.

And you've only completed your first reading book in Xhosa? -- No your Worship.

How many have you completed? -- Two your Worship.

How many of them in Std. 1? -- Three in Std. 1, your Worship.

Have you finished three? -- No, your Worship. (20)

Does that mean you got three reading books in Std. 1? -- No, they are not three, your Worship.

What are you talking about three then? -- Story books your Worship.

They were three story books? -- No your Worship, not three of them.

Well what is this three you are referring to? -- Others are story books, your Worship.

Tell me, how long have you been going to school, how many years? Can you remember? -- No, your (30) Worship.

You are now in Std. 2 you've told us. Last year you went to school from the beginning of the year to August, you were in Std. 1, right? Is that right? -- Yes your Worship.

And the year before that, were you also at school? -- Yes, I was attending school.

What were you in, a thing called Sub.B, I don't know how your education works but in European schools, before Std. 1 comes Sub. B, were you in a thing called Sub. B or something else? -- Sub. B, your Worship. (10)

And before that, were you in Sub. A? -- Yes your Worship.

Would that be, you started school, you went to Sub. A, Sub. B, last year to Std. 1 till August and this year in Std. 2? -- Yes your Worship.

I see. O.K. Now, when the police asked you at New Brighton who your friends were, did they tell you why they wanted to know who your friends were? -- No, they did not tell me.

When you were assaulted, how were you assaulted? -- I was assaulted by clenched fist, your Worship. (20)

Where on your body? -- All over my body.

And accused no. 2, 3 and 4, did you see where they were assaulted? -- Accused no. 2 was slapped, your Worship.

And accused no. 4? -- No your Worship, I arrived after they were assaulted.

I see. Now, you were handed over to the police on that Wednesday night? -- I was arrested on Wednesday.

In the night? -- Yes. (30)

You were taken to the Ciskei envoy's house

which was still burning? -- Yes your Worship.

And then you were taken, eventually, to a police station? -- I was taken to Algoa Park.

Yes, well this is a police station. -- Yes.

Now, where were you asked about your friends, for the first time that night? -- We were at technical school, your Worship.

At the technical school, who was present? -- It was myself and two police officers, we call them soldiers. (10)

Do you know this other boy that my learned friend mentioned, I wonder if he could just repeat that name sir, that witness?

Mnqayi?

COURT: Mpumelelo Ngcayi.

MR. JACKSON: Mpumelelo Ngcayi. -- Yes, I know him.

Did you see him that Wednesday night when you were arrested? -- I did not see him.

I wonder if this couldn't be a convenient time to adjourn sir, to one o'clock, I'd like to start a new point (INAUDIBLE) (20)

COURT: What is the question, "did you see him"?

MR. JACKSON: Yes, that night.

COURT ADJOURNS.

COURT RESUMES.

SAMSON MDUSHANE still under oath.

CROSS-EXAMINATION BY MR. JACKSON RESUMES:

Samson, now at what stage were you asked by the police whether you played any part in burning down these particular places on that Wednesday night? -- Once we were at the technical school, your Worship. (30)

I see, and what did you answer them? -- I

told them that we burnt your Worship. I was assaulted, I had to admit that I was also involved.

Did you tell them that you had burnt before you were assaulted or after you were assaulted? -- After I was assaulted.

And before you were assaulted, what did you tell them? -- I was denying the fact.

You were denying. Now was it Bantu policeman or European policeman or Coloured policeman? Who were these people at the technical school? -- European police-(10) men.

Do you know any of their names? -- No, your Worship.

What language were they speaking to you in? -- Xhosa.

The man who spoke to you in Xhosa, was he a European? -- Yes.

What did he look like? -- Two soldiers, your Worship.

What was two soldiers? There were two soldiers speaking Xhosa? -- Yes. (20)

Oh, I see, and who hit you? -- Both of them your Worship.

Now, when was the first time you told the police about your friends, accused no. 2, 3 and 4? -- After I was taken from Swartkops, your Worship, I was assaulted.

Now tell me, did any policeman ever tell you that you must come to Court and tell the Court that you admit doing those things? -- No, your Worship, the detectives told me. (30)

What did they tell you? -- They asked us to make/.....55

make a statement.

And did you make a statement? -- Yes I made a statement to the detectives your Worship, it was after the other accused had made statements to the police.

Did the police tell you that they had statements from the other accused, therefore you must also make one? -- Yes your Worship.

Now did you know that you were going to come to Court for this matter? -- No.

Now when you came to Court here on Friday (10) you were asked by the Court about these things that happened, do you remember? -- Yes.

And you pleaded guilty to the main count and the alternative count? -- Yes.

Why did you do that? -- Because we were being assaulted when we deny the charges against us.

I see, so the position was then that you know that if you deny any of these things you would be assaulted? -- Yes your Worship.

And that's why you admitted to the main count(20) and to the alternative count? -- Yes your Worship.

I see. Now today you told the Court in your evidence in chief that you did not go to any of those places or set fire to any of those places. -- Yes your Worship.

Do you know a person by the name of Stonge?
-- Yes.

Who is Stonge? -- Accused no. 2.

Who is Nune? -- He is not here, he is at home.

He is at home. Do you know where Nune lives?(30)

-- Yes your Worship.

Where does he live? -- In Dubula Street.

I see, was he still living at Dubula Street at the time of this incident on the day you were, the night you were arrested? -- Yes.

What is Nune's surname, do you know? -- I don't know his surname.

He is no ^{Mngayi} Mpumelelo Ncgayi? -- No, your Worship, ^{Mngayi} Ncgayi is the other person, **Papati**.

Papati, I see. Now this incident for which you were arrested took place on Wednesday night, the 22nd(10) of February. You told the Court that you were sent out by your brother? -- Yes your Worship.

Now, did you remember seeing accused no. 2 or accused no. 4 that day at all? -- I did never see them your Worship.

I see. When you were asked by the police to give the names of your friends with whom you play, how many names did you give the police? -- Six, your Worship.

Six names, including yourself or without you? -- Including me.

Including you. Can I suggest to you that the names you gave to the police were like this, yourself, Stone, Mplati, Nune, Mshlane and Papati. -- Yes your Worship.

Are those the six names you gave to the police? -- Yes, your Worship.

Now those six names, you and three of the others are here, Nune you say is at home, and Papati you heard he was a State witness, he was here at Court but hasn't been called, is that right? -- Yes, your Worship. (30)

Now, did you see this Papati and Nune with
these/.....57

these three accused when you saw the accused at the charge office at Swartkops? -- No, your Worship.

How many did you see? -- I saw Stonge, Mlamli and Mplati.

Stonge, Mlamli and Mplati, these accused no. 2, 3 and 4? -- Yes, your Worship.

And when was that? The next day, the Thursday or the day after, the Friday? When was that? -- The following morning, your Worship.

The following morning. Now, have you been (10) kept at the same place as these three accused while you were waiting for your trial? Have you been kept in custody together with these three accused? -- No, your Worship.

Where have you been kept? -- Swartkops.

And these three accused? -- New Brighton charge office.

I see, have you never been together in custody with them? -- Yes your Worship, we have been together.

Tell me and Nune and Papati, have they ever been in custody? -- No your Worship, they were not detained. (20)

Do you know when they were arrested? -- Yes your Worship, on the same day when the accused now before Court were arrested.

I see, and they were allowed to go? -- Yes, your Worship.

Now, the place where you live, In Pandla Street, how close is that to the Dutch Reformed church? -- It is not very far, your Worship. My home is in the lane.

And the church is nearby? -- Yes your Worship.

And the house of the Ciskeian Envoy, do you (30) know where that is? -- It is far, your Worship, it is

there in New Brighton.

Can you give us any indication of how far it is from where your house is? From where you are standing now is it perhaps where the Labour Department is, or to the outside gates here of Algoa Park or to the main road, how far? -- I cannot see it from my home, your Worship, it is very far.

How long does it take you to walk there? -- It is as far as New Brighton charge office.

From here? -- From here your Worship, New Brighton charge office. (10)

Unfortunately sir, I don't know how far that is, I don't know the exact location of New Brighton charge office, perhaps my learned friend can assist? From here to New Brighton charge office.

PROSECUTOR: About two kilometres.

MR. JACKSON: Two kilometres. And the teacher, Tyaliti, do you know where he lives, the teacher who gave evidence this morning, Tyaliti? -- Yes, your Worship, he stays in Dubula. (20)

In Dubula Street, how far is that from your house? -- It is not far your Worship.

Not far. So the teacher is nearby and the church is nearby? -- Yes.

And the Ciskeian Envoy's house is some distance away? -- Yes, your Worship.

Salie's Shop, do you know where that is in relation to your house? -- It is in Avenue A, right down in Pendla.

Now is that the nearest shop to you, or not?(30)
-- Yes your Worship, that is the nearest shop although

it is in Avenue A.

I see, is that the shop you were going to get matches from? -- No your Worship.

Where were you going to? -- There is a house used as a shop, your Worship.

And who is Siphwo, the one who slapped you and made you lose the 2c piece? -- He is outside, your Worship.

What is his name? -- Siphwo.

Siphwo who? -- I do not know his surname. (10)

How do you know he is outside here today? -- I did see him here.

I see, and you say he was in the lane with you just before the teacher caught you? -- No your Worship, he came with the teacher.

Oh I see, is Siphwo perhaps the man, Knowledge Nyange? -- I do not know, your Worship.

Who was with you then, in the lane, if anyone? -- I was alone.

You were alone, and you never saw accused no. (20) 2 or 4 that night? -- I did not see them, your Worship.

NO FURTHER QUESTIONS.

CROSS-EXAMINATION BY ACCUSED NO. 3: NO QUESTIONS.

CROSS-EXAMINATION BY MOTHER OF ACCUSED NO. 3: NO QUESTIONS.

CROSS-EXAMINATION BY PROSECUTOR:

Accused 2, 3 and 4 are friends of yours, is that correct? -- Yes your Worship.

And when you come to Algod Park to the Court, you are detained in the same cells? -- Yes, your Worship.

After the adjournment on Friday, you were (30) also detained in the same cells? -- Yes, your Worship.

And/.....60

And you have discussed the case, is that correct? -- No your Worship, we did not.

Nothing? -- No your Worship, we did not speak to each other.

But didn't you hear accused no. 4 accusing you of being the person who influenced him as well as accused no. 2 and 3 to accompany you to commit the offences? -- I did not influence them, your Worship.

But did you hear him say so in Court? -- No, your Worship. (10)

But how is that possible? He is standing just about right next to you? -- Correct your Worship, but I did not say anything.

But did you hear him telling the Court that you are the person who influenced them to accompany you to commit the offences? -- Yes, I heard him.

Now, he is much younger, or let's put it this way, he is much smaller than what you are? -- Correct.

And when you got back into the cells, didn't you ask him "But why are you now putting the blame on me?" -- (20) I did ask him, your Worship.

But you just told the Court that you never discussed the case after the adjournment? What did you ask him? -- I asked him why he put the blame on me, your Worship. He said he got the statement from Mplati.

Who is Mplati? -- Accused no. 3, your Worship.

So, according to accused no. 4 then, he told you that accused no. 3 told him to tell that to the Court? -- Yes your Worship.

And no. 3 is also smaller than what you are, (30) or just about the same size then? -- Correct your Worship.

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