

SUMMARY OF FACTS AND SUGGESTED APPROACH

1. Mrs. Mafekeng was due to be deported on Monday, 9th November, 1959.

2. SATURDAY:

On Saturday morning, the 7th November, 1959, the Police informed her that Sergeant Snyman would be coming to see her later that day, and she then sent word round that this would happen.

A crowd started to gather on Saturday in Barbarossa St., and reached proportions of approximately 300.

Nothing happened. The crowd dispersed on Sunday morning.

3. SUNDAY:

On Sunday afternoon, there was a protest meeting at the Grand Parade, Cape Town, and after the meeting had ended the crowd again gathered in front of her house. They expected the Police to fetch her that evening or the next day.

Insofar as this crowd was concerned, it does not seem that there was a common purpose to do acts of violence. If this was so, however, all the members of the crowd that gathered might be guilty of acts of Public Violence. We will probably have to take the line that this was merely a demonstration of solidarity with Mrs. Mafekeng by way of protest against her banishment. We must resist any suggestion that there was any pre-conceived plan to prevent the police from taking her away.

It must be borne in mind that on the previous Sunday there had been a protest meeting at which this demonstration was planned. Members of the Special Branch were present.

If there has been any suggestion of resisting the police we could have expected an allegation to that effect.

4. MONDAY:

(a) Unknown to the crowd, Mrs. Mafekeng left at about 2.30 a.m. on Monday.

(b) The crowd remained outside her house reasonably quietly during the whole of Monday and at some stage had already reached a size of more than a 1,000.

(c) During Monday afternoon the crowd began to get excited and forced drivers of cars to give the "Afrika" sign.

Various members of the crowd who were in the Klein Drakenstein Road are alleged to have stoned and struck motor vehicles belonging to the following people:

Jacobus Rhode, Van N. Marais, Kiliaan J. van Molendorff, C.J. Marais, H.W. Cupido, D.D. Phillips, H. Brozel, A. de Vos, D.J. du Plessis, G. van Schalkwyk, J.P. Hugo, Paarl Municipality, Frank Marquard, Vincent B. Sullivan.

Round about this time, too, the street lights were all shot out by boys with catapults and the windows of Van Zyl's house were broken by stones. Van Zyl left. Window panes in the bottle store of David Essau (Klein Drakenstein Road) were also broken.

(d) At this stage was there any public violence? We might try to argue that these were isolated acts of small groups that happened spontaneously and that there was no common cause, and really no public action. The time at which these cars were struck is allegedly at about 9 p.m.

It is alleged in respect of Pieter Lewis (No. 46, our client) that he incited the crowd by shouting: "Gooi die donderse boere."

On the evening of the 9th a number of vehicles were overturned.

(e) The next major incident was that Heinz Losch and Gunther Brozel drove down Klein Drakenstein Road and a shot was fired. It is not clear who fired the shot: it was either one of the Germans or Van Zyl, but this resulted in a car being overturned and Losch was stabbed with knives. It is alleged that those responsible for the stabbing are:

- i) our clients: Hendrik Heyns (No.9) and Jacob Davids (No.66)
- ii) Miller's client: Andrew Ntila (No.8).

(f) With regard to identifying these three accused, and also other persons who stoned and struck at cars, note that the drivers, in contrast possibly to the Van Zyl's, were not previously acquainted with the inhabitants of this area, and identification by them is most unlikely, particularly as there was no identification parade. It seems therefore, that for identification on these aspects, the Crown must rely either on accomplices or other members of the crowd.

(g) We should also argue that the stoning of the Germans and the burning of their car was still not Public Violence, because it was a reaction touched off by the shot, and members of the crowd who were not actual participants cannot be linked by any theory of common purpose.

(h) A report was apparently made to the police who appeared. According to what Capt. Fourie told Mr. S. Miller, the Van Zyls had frequently telephoned.

The police fired, probably precipitately, and injured a number of people. The crowd dispersed and the police left.

(i) At this stage members of the crowd came under the impression that Frans van Zyl had fired the first shot, and James Andrews (No.1, withdrawn), Ammie Jeppe (No.2, a client of Dan du Toit), and Herman Groenewald (No.7, withdrawn) broke into Van Zyl's shop, and were followed by a large number of other persons who proceeded to loot it. It is alleged that the following participated:

i) Our clients: Ammie Jeppe (No.2), William Festus (No.3), Johannes Lombaard (No.4), David Swarts (No.5), Karools Moses (No.6), Victor Pieterse (No.10), Michael Mtembu (No.11), Hassiem Davids (No.12), Piet Joubert (No.15), Hendrik Smit (No.17), Stanley Hansen (No.27), Jacobus Johannes (No.52), Samuel Theo (No.54), Leonard Kortjie (No.57), Guys Hautt (No.58), Stanley Manile (No.60), Marthinus Francken (No.63), Henry Fredericks (No.64), Jacob Davids (No.66), Ernest Langeveldt (No.67), Lambert Theo (No.68), Solly van Zyl (No.69), Willem Muller (No.70), Dennis Fredericks (No.71), Ronnie Alexander (No.72), Aaron Ntikintiski (No.73), and Richard Abrahams (No.74).

- ii) Miller's clients: Salmon Pieterse (No.13), and Julie Arendse (No.59),
- iii) Shoolman's client: Daniel Appolis(No.56)
- iv) Du Toit's client: Pieter de Kock (No.61)
- v) Basson's client: Johannes Maleke (No.62)
- vi) Hofman's client: George Sass (No.65).

(J) It seems to me that by this stage the crime of Public Violence was being committed, and we will probably be able to rely on alibis and questionable identification.

(k) As to identification on the shopbreaking the Van Zyls probably know the people well enough from previous acquaintanceship to be able to identify, but it seems that by this stage they may have already fled. The only other means of identification is by accomplices and innocent non-participating bystanders.

(l) The police returned and cordoned off the area. When Dr. Newman arrived at about 11 p.m. the area was already cordoned off.

5½ TUESDAY:

(a) It would appear that Tuesday morning was quiet. There were probably visits by the Press.

(b) At about 6 a.m. on Tuesday morning, the police came to fetch Mrs. Mafekeng, found her gone, and made a number of arrests. Amongst the accused who say they were arrested on Tuesday morning were the following:

On what basis could the police have arrested these people? There could not have been any identification at that stage.

(c) In the evening, things were generally quiet, but there were small groups still in the streets. At this stage Mrs. Mafekeng's whereabouts were unknown. These small groups stoned a few cars.

(d) About 6 p.m. Saracen cars patrolled up and down the streets.

(e) At about 8 p.m. Van Zyl's shop was set alight. There does not appear to be a specific allegation in this regard (See Para.B 3 of the Charge). (Para. B 20 of the Charge says that the Van Wyk house was damaged at about 9.30 p.m. - but there is no allegation re particular persons. Can we object to this allegation in the Charge Sheet, and have it struck out?)

(f) At about 8 p.m. the police are said to have stopped the fire. They continued to patrol, presumably in Saracens, until about 11.30 p.m. During this evening, stones are alleged to have been thrown at the police vehicles. The following accused are alleged to have done so:

i) Our clients:

Hendrik Heyns (No.9)	Michael Mtembu (No.11)
Piet Joubert (No.15)	Sidras Fleurs (No.21)
Solomon Manael (No.22)	Hendrik Simmery (No.23)
Abraham Bowley (No.24)	Stanley Hansen (No.27)
Andries Hofman (No.28)	Adonis Botha (No.29)
Pieter Odendaal (No.36)	George Moses (No.40)
Carstens Titus (No.42)	Piet Jacobs (No.43)
Johannes Syster (No.44)	Johannes Parensse (No.45)
John Matthews (No.47)	Mabel Daniels (No.50)
Ernest Langeveldt (No.67)	Lambert Theo (No.68)

Solly van Zyl (No.69)

Dennis Fredericks (No.71)

Aaron Ntikintsiki (No.73)

Samuel Afrika (No.76)

Gert Agullas (No.79)

Willem Muller (No.70)

Ronnie Alexander (No.72)

Richard Abrahams (No.74)

Sidney Jensen (No.78)

- ii) Shoolman's clients: Reginald Ndokwana (No.25) Andrew Fredericks (No.34)  
Johannes Cupa (No.35) Johnny Francke (No.41)  
Nicolaas Viljoen (No.48) Arthur Adams (No.75)
- iii) Miller's clients: Philemon Runelli (No.26) William Casane (No.30)  
Jacob Syster (No.31) Daniel Verkeer (No.39)  
Fritz Jordaan (No.49)
- iv) Du Toit's client: Yusuf Jacobs (No.20)
- v) Basson's client: Felix Adonis (No.80)
- vi) Hoffman's clients: Solomon Pieterse (No.38) Ada Filander (No.51)
- vii) Murray's client: Manuel Samuels (No.77)
- g) Insofar as the stone throwing is concerned, identification will probably be by the police.

At about 8 p.m. the car of Vincent Sullivan was damaged, and about 8.15 p.m. the van of the Paarl municipality, both in Klein Drakenstein Road.

(h) Further arrests were made that Tuesday evening.

(i) There is a general allegation that the crowds marched through Barbarossa St. and Klein Drakenstein Road. A march would suggest concerted action. In fact, there does not appear to have been a march, and we must try to show that people were merely standing around.