

Documents re the trial held in the regional court in Paarl, a town of about 20 or 30 thousand people, about 40 miles from Capetown. The background to this was the placing of a banning order upon an African Trade Unionist called Elizabeth Mafeking, who was an active leader of the Food and Canning Worker' Union in Paarl, and also a prominent member of the ANC. She had been a very prominent personality, and lived on one of the large mixed (ie African and Coloured) locations on the outskirts of Paarl. She was extremely popular - this emerged in the trial - and when she was banned, there were protests of various sorts, involving a blocking of the main street near the location with milling crowds. Some passing cars were interfered with. At some stage a local shop was broken into and things taken. The police came in with Saracens, stones were thrown at them, and the police opened fire, and at least one person was shot dead. As invariably happened with cases of this nature, the police were not charged with anything, but the crowd was charged with public violence. All this took place in late 1959, the trial commenced early in 1960, and carries on for a number of weeks - and ended before Sharpeville.

In a way this whole trial foreshadowed Sharpeville - the events at Paarl foreshadowed the rising anger of the black, and in this case, brown, people on the one hand, and on the other the willingness of the police to use Saracen and fire upon them. In a way this was part and parcel of the new mood of militancy both on the part of the black people and the police authorities.

We were briefed in Capetown on the initiative of the Food and Canning Workers' Union. Although the union was not directly involved itself in any of the incidents, it is possible that some of its members were amongst the accused. I was originally to appear for Accused no 77 - this was a real mass trial - and they instructed solicitors in Paarl to brief counsel in Capetown (there were none in Paarl). In fact 4 counsel appeared altogether. Of these 4 counsel, it is a way indicative that 3 are now in London, whilst the other has gone on to an extremely successful career in South Africa.

The evidence consisted primarily of statements by the police witnesses as to the actual stone throwing and attacks on them, and the case really turned on the question of identification. The defence did not deny that stones had been thrown, or that goods had been taken from the shop. The accused rather denied that they had been there. The magistrate who appeared was Mr I Deakenah, a very senior magistrate who subsequently became Chief Magistrate in Johannesburg. He presided with great patience over what subsequently turned out to be very long drawn out proceedings. I remember him saying in his summing up that the defence had left no stone unturned, and that he should rather have said that no tree had been left unbarked up. Nevertheless, he gave the accused the benefit of the doubt.

The period of the trial was what one might call the last of the halcyon days for defence counsel in political trials, and eventually out of about 80 accused only 6 were found guilty. Some of them were juveniles and received cuts, while others received relatively mild sentences because the degree of participation proved against them was not very great. If one looks at the list of the accused, perhaps the most interesting thing to emerge is that there were both African and Coloured names. I think this refutes the rather simple version which many commentators put over - namely that African and Coloured workers never co-operated, that their only point of

contact in political terms would be at the high level of leadership, or as a matter of friction at a local level in the factories. In fact I think very much because of the activities of the activity of the Food and Canning Workers' Union (in the Cape), which worked very hard to promote working class unity - it was quite clear that an enormous degree of closeness had been achieved, and this was something that had to be explained to doubting people. In the rural towns outside Capetown at any rate, there was a very close degree of working class unity between Black and Coloured at a very basic level. This was promoted by the fact that that they often lived amongst one another, at least until the early 60's when segregation between Coloured and African was made much more rigorous in the Cape than it had been before. This trial, in both the composition of the accused and the fact that large numbers of Coloured people were clearly involved in active street protests arising out of the banning of an African woman indicate quite clearly that as far as that locality was concerned there was a very strong feeling of identity of interest.

I might mention that Elizabeth Mafeking was in fact banished. Rather than follow the terms of the order which would have banished her to a rural district in the Cape, she fled to Lesotho where she has been ever since.

One of the detectives in charge of this investigation came in for quite a severe cross examination - a lot of it from me. He retired a couple of years later from the CID, and I didn't see much of him until I was in detention in late 1963 when he suddenly appeared as one of my chief interrogators. At first he was extremely hostile to me, but afterwards he tried to be very friendly. Looking back on this subsequently, I felt that there was a large element of revenge on his part, and that he had felt humiliated by the relative failure of the prosecution in the Paarl case, and by the allegations against the police of irregularities at identity parades. This in a way illustrated the difficult situation that defence counsel - particularly those of radical views - were in, after the 90 Day law was introduced in 1963. It only added to one's general fears the feeling that if you cross examined too severely at a trial you never knew when you yourself would be interrogated by the person you were cross examining, but in circumstances where normal rules of evidence and procedure did not apply.