

THE COURT RESUMES ON 15.6.1972.

HIERONYMUS VAN PRAAG KOCH s.s.

MR. MAISELS (cont.): Dr. I just want to see that we are on the same wavelength in regard to the language that we are using. Now first of all, I think you will agree with me and it appeared from what was said yesterday, that the main reason for the difference in the periods and you know we are talking about the ante mortem period which have been discussed on this occasion, ^{between} / you and Dr. Gluckman and Dr. Schepers apparently arrived because of the disputed question as to whether there is hyperplasia in the specimens or not? --- I don't think that that is the only reason why I put these lesions at the periods that I put them, the hyperplasia is one of the reasons.

Could I say it is the main one? --- Not even necessarily the main one.

Not even the main one? --- No, not necessarily.
It is one ... (intervenes)

Is it an important one? --- It is an important one.

If you are wrong on the hyperplasia question, does that affect your conclusions? --- No, it does not.

No? --- No.

Is that really so? --- That is so.

Now just let's see that we understand one another because last night Dr. Shapiro and Dr. Gluckman was assisting me and we went through all your references on hyperplasia which you were good enough to give them. And just let's get some dictionary terms first. Hypertrophy is an increase in the size of the cells and is not an increase in the number of the cells, is that correct? --- That would be correct.

It is quite a distinction to hyperplasia which is

/ an ...

an increase in the mass of any tissue but it is due to an increase in the number of the component cells due to cell division? --- That is correct.

Those are elementary definitions? --- That is correct.

And if a person doesn't know the difference between hypertrophy and hyperplasia he will be failed as a student at any University? --- It depends on the examiner.

Well, if there any examiner who would pass him if he didn't know the difference between those two? --- Probably not.

Now having done that, hypertrophy comes from the Greek word trophas, growth, you get hypertrophy if you do this, is one of the ways. You increase the size of the cells. I don't know if your Worship knew that, I didn't until I was told. Now let us, take your references in your hand, please, the list that you gave us Professor. The first reference that you referred to in regard to hyperplasia was Robertson, page 21 where he talks about "clear cells in the generating epithelium"? --- That is correct.

Now that is not hyperplasia, is it? --- No.

It is associated with early regeneration? --- That is correct.

These clear cells are often seen in a normal epidermis? --- That is correct.

Right, the second, Pinkus. We have brought the books and in some cases we tried to get two copies but we couldn't, so that we could hand one to the learned Assessor, but we will try and do that as we go along. The next reference that you refer to is Pinkus and your note says 1950 but I think it is 1951, "Journal of Investigated

Dermatology', Volume 16, page 385? --- That is correct.

The passage beginning, reading as follows:

"No definite instances of direct nuclear division, anaplasia were seen but the presence of a fair number of bi-nucleate cells in a 24 hour specimen indicates that anaplasia may play a role in the early ^{effort} of the epidermis to maintain its integrity". Now this is the passage to which you referred? --- That is correct.

Now just a moment, it is not, it is the next passage... (both speaking together) ... "of this effort apparently are hasty incomplete keratinization (parakeratosis) and increase of cell size particularly in the basal layer", that I think is the passage which you referred to? --- That is correct.

This is not hyperplasia, it is hypertrophy of the basal layer cells, isn't it? --- If I may just indicate to your Worship that in this paper by Pinkus he also describes and my learned friend read out mitotic division which becomes obvious after this type of injury.

But Pinkus that you referred me to ... --- If I may just explain, Mr. Maisels, but there is mitotic division as well which means that the cells are dividing, they are increasing in number as well.

But if the passage says no definite instance was seen but the presence in the 24 hour specimen indicates that anaplasia may play a role in the early efforts of the epidermis to maintain its integrity, other mechanisms in this effort apparently are hasty incomplete keratinization and increase of cell size particularly in the basal layer. That last sentence was the sentence which you referred us to? --- At the time yesterday when I was asked my references, I

/ was ...

was rather rushed when I wanted to indicate certain passages. Eventually it was decided that it would be better if I gave the references. I would ask the Court's assistance to indicate that when I mentioned a specific passage, I didn't mean that this passage as such indicated what I meant but around that passage there is a description of what is happening and in addition one gets this change or cell size. I was trying to indicate here to the Court that apart from the increase in number of cells, there is also the increase in the size of the cells. I described these as clear large cells and this is part of what I maintain is the hyperplasia. And this paper indicates that there is mitotic division at some stage which means cell increase.

I'm only concerned for the moment, you can explain as you go along as much as you like, we have taken your list in your own typing that you were good enough to give us of the passages you referred to and I'm going to demonstrate to the Court that not a single one of these supports what you said. Now take the third passage, Pinkus, 1952, Journal of Investigated Dermatology, Volume 19, page 432. --- I have got it.

That is the passage, this sets out a passage which reads "this presentation attempts to give a more complete quantitative, a quantitative analysis of the changes which take place in the number on size of cells, number and size of cells and also in the number of mitosis in relation to completeness of stripping and the time elapsed after stripping. That was the purpose of the paper and it describes hyperplasia and sets out what the object of the research is, correct? --- That is correct.

Well, we will have to return to this, I think, a

/ little ...

little bit later because we will see what the relevance is, if any. --- Your Worship, may I comment on this.

COURT: Certainly. --- I would like to indicate that this particular passage that I mentioned also mentions the increase in the number of cells.

MR. MAISELS: I read it out. --- I just want to indicate to the Court.

I thought I read it out. --- But I just wanted to stress that point.

You don't want me to stress it. --- Well, you didn't stress it so I felt that I should stress it because it stresses my point.

Dr. what are you here as, what sort of a witness?
--- I'm trying to ...

To justify a thesis or to give evidence as to the facts in this case? --- Giving evidence as to the facts.

Well, just bear that in mind. And once we are talking about numbers, it talks about sizes as well? --- That is correct.

If you think I read a passage unfairly tell me. Let's take Pinkus, the same paper, page 432, I'm sorry, the next passage is 434... that is starting this way. At the foot of page 434, 2(c) taken at 12 hours shows relative unrest in the epidermis, the basal cells are more hypertrophic and their nuclei are situated at various distances from the base. There are still quite a few pigmented nuclei in the prickle cell layer while other nuclei are becoming hypertrophic". Is that the passage you referred us to? --- That is correct.

Is it a correct description to say that this is not hyperplasia? ---That is correct.

/ Is ...

Is it hypertrophy? --- That is correct.

The next one, page 441, I'm sorry, page 435 of the same paper, this is the passage you referred us to, "the 24 hour stage, page 20, shows that the largely overcome. The basal cells are greatly hypertrophic and they are lighter, more..... distinguishes them sharply from the more basophil tricle cell". Is that the passage you referred us to? --- That is the passage.

Now the comment again is this isn't hyperplasia, this is hypertrophy? --- That is correct.

So we have got a duplicate of this one, the originally, actually. Six is your next reference. By the way, I wonder if you have another copy of this that you were good enough to give us yesterday, Professor, of this list of your authorities. --- I think I have one, if you will bear with me.

I think it might be convenient if one were handed to Prof. Simson so that we can follow each one.

The learned Assessor will see under the number 4, I have already dealt with Pinkus 434 and I'm now going on to the Pinkus .. 24 hour stage and then at 436 is the next. Where you make reference to this passage at page 436, it begins at the top of the page, "one third or more of the thickness of the epidermis is made up of the columnar basal cells, the right half of the picture still shows the generative changes in the prickle cell layer while the left half shows considerable hypertrophy" and you carry on, "a multiple keratotic layer covers the surface, some cells begin to (coughing). At 36 hours the epidermis appears consolidated. Basal cells and prickle cells are hypertrophic and a new stratum granulosum begins to form beneath the para-

keratotic cells". Is that the end of the quotation? --- That is correct. At 72 hours, lower down, just before you get to the table I think it goes on.

That's right, we will come to it, don't worry. I can assure you every single one of your references will be referred to. --- You asked me a question, I'm just answering your question, this is not the end of the quotation on the page.

By all means, but it is really your next, we will come to it, have no fear. The passage that you want me to read now, just for a moment pausing where I read, that is hypertrophy? --- That is correct.

And then you get finally in 3(c), we see that 72 hours numerous cells in all stages of mitosis which is hyperplasia. --- That is correct.

The epidermis has practically doubled its normal thickness, much of the original cell layer has been slushed off of the parakeratotic ... and a new nuclear horny layer begins to form between it and the multiple stratum granulosum, the"(inaudible, continuous coughing). Correct? --- That is correct.

When does that commence... --- I don't follow the question.

The mytosis, the picture changes abruptly, I will show you a passage higher up which you haven't referred me to, on the same page. Just look at the passage I first read you on that page which starts at 36 hours, that is line 5 to parakeratotic cells.... (Mr. Maisels reads, inaudible).. "no increase of mitosis is yet found. The picture has changed abruptly at 47 hours"? --- That is correct according to the literature here.

/ What ...

What does that support for the 9 to 12 days? ---
We are now dealing, to my mind, with the proof of the existence of hyperplasia and I have not used this piece of literature to support the 9 to 12 day period, just to support the fact of hyperplasia.

It supports the fact that hyperplasia can occur, that is all it supports? --- That is all I was trying to indicate by these references, that there is a thing such as hyperplasia.

But here it says at 72 hours ... --- I was not concerned in this instance in proving dates, just in proving the fact of hyperplasia.

You see, the difficulty we have got, Professor, I shall hope to demonstrate presently, is that none of these passages affords any support for what you have been saying. We will just carry on, I am going to analyse each one of them.
PROF. SIMSON: Could we just get that statement, I'm not sure that we understand it one hundred percent. These findings that Pinkus describes in his stripping experiments you refer to as hyperplasia? --- The fact that there is mitosis and the enlargement of the cells ...

Just answer that question, Prof. Koch. These findings as described now in Pinkus you call hyperplasia? --- That is correct.

Is this the same sort of hyperplasia that Robertson referred to in his paper? --- That is how I understood it, and I took it as this type of hyperplasia.

But then that doesn't tie up to the way I read Robertson's paper? If you look at his illustration of hyperplasia this is not what he illustrates, that is not correct? It is figure 5. --- I have got it. /Is...

Is that illustration the same process as Pinkus is describing in his paper? --- I think it is part of the same process, it is probably more advanced because ...

Does Pinkus describe tongues extending into the epidermis? --- No, Pinkus in this experiment doesn't describe it ...

You said that this is what you understood by hyperplasia, this is clearly, is this not true, this is clearly not what Robertson illustrates when he talks about hyperplasia? --- With respect, if one reads the other papers, for instance, Gillman and Penn...

We are just talking about this because you have accepted, this is what you interpreted as hyperplasia and this clearly not, is this not true, Prof. Koch, this is clearly not what Robertson has illustrated? --- The way I understood it is this, that one gets the mitotic division and enlargement of the cells, hyperplasia. And at a later stage the hyperplasia is so excessive that you get invasive spurs as Gillman and Penn call it. So the stage that Pinkus describes is the earlier stage of the hyperplasia, the pseudo pegs that Gillman and Penn and Robertson and other people describe is the more advanced stage of hyperplasia that they describe. That is the way I interpreted it.

But you have already told us that what Pinkus described here you interpret as epithelial hyperplasia, is that correct? --- That is correct, the early stages of epithelial hyperplasia.

Is there an increase in size? --- To my mind, yes. In the size of the epidermis, the thickness of the epidermis, yes.

Is this not reconstituting cells that have been

lost? --- I don't follow this question.

When you strip cells off the top of a skin you are pulling them off? --- That is correct.

Is the object of the mitotic division here not to reconstitute that epithelium? --- That is correct.

Does it cause an increase in the size? --- To my mind, I understood it to increase and according to the pictures in Pinkus' paper this is so, that the thickness of the epithelium increases until it eventually reconstitutes to the normal stage.

Till it reaches its normal size? --- I got the impression that it increased even a bit more, that it became hyperplastic and then ...

Became hyperplastic? --- Yes.

Became hyperplastic, was it not hyperplastic originally? --- No, in the sense that with the increase and the mitotic division this damaged area shows a thicker epithelium than the areas outside the damaged area.

Do you think that Robertson was referring to this change which Pinkus describes when he talks of hyperplasia? --- I see this is the earlier stage of what Robertson describes.

Does he describe it in that way? --- He doesn't mention Pinkus.

He doesn't mention Pinkus but he illustrates hyperplasia? --- Yes, but to my mind the study of the literature indicated to me that the hyperplastic proses has to start somewhere and ...

Perhaps we can take this a little bit further, Prof. Koch, he describes the mitotic division, doesn't he? --- Who, Robertson? I can't recall but I imagine he does.

/ He ...

He describes the migration of cells and he describes the growth of the epidermis once the tongues have met, is that not correct? --- Yes, I accept that.

Does he call that phase hyperplasia? --- The hyperplasia as the definition says is ...

No, no, just answer that question, he describes quite distinctly this phase, is it not correct? Where the cell division is occurring and where the keratin, it is progressing to the stage of keratinization? --- I wouldn't call that hyperplasia, that is regeneration.

But is this not what Pinkus is describing here, what you just called hyperplasia? --- The concept of hyperplasia to me from the literature and from my own knowledge also appears at the edges of the wound where there is no actual damage to the epidermis.

This passage in Pinkus you have already called hyperplasia but the similar phenomenon described in Robertson's paper you do not want to call hyperplasia, is that correct? --- I think the learned Assessor and I do not see with the same eye, if I may say so. I accepted and I gathered from Pinkus' paper that at a stage this cell division and enlargement of cells causes an increase in the thickness of the epidermis thicker than the pieces of the skin that were not damaged and this stage I would call hyperplasia. The facts that I referred to in my reference to hyperplasia is just building up to the fact that hyperplasia does exist.

And this experiment of Pinkus' on the small scale, is it not exactly the same as Robertson is describing? --- In the case of Pinkus he only removed the keratin layer.

This is what I said, this is on a smaller scale, is

/ it ...

it not? --- Yes, so the hyperplasia here would be on a smaller scale.

But this is precisely the phenomenon, is it not, Prof. Koch, that Dr. Robertson describes in his 5 to 8 day period? --- As I said ...

Do you agree that this is the same phenomenon that Robertson is describing or not? --- I say it is basically the same phenomenon except ...

And in one case you want to call it hyperplasia and in the other not? --- I'm talking of the full blown picture in Pinkus.

Can we restrict ourselves to this description, is this in fact so, do I interpret your opinion correctly? --- Which facts now, I'm not quite sure which facts are we talking about?

Robertson is describing basically the same process? In this passage? --- Yes.

Robertson does not call it hyperplasia and you agree that it is not hyperplasia when Robertson describes it? --- Except that in the case of Robertson the learned Assessor mentioned the tongues of epithelium moving in.

But does Robertson call this phase hyperplasia? --- No, this is not hyperplasia, this is not what I see as hyperplasia.

And Pinkus? --- But Pinkus doesn't describe this deeper damage where tongues of epithelium have to grow over, this is just ...

Pinkus does not call that hyperplasia either? --- No, he doesn't describe that as hyperplasia.

Pinkus doesn't describe it because he hasn't removed

/ those ...

those cells, isn't that so? --- That is the point but the upper layers of the epidermis which were removed in Pinkus' case have to be replaced but not by the same extensive process that occurs in Robertson's work.

So if anything, Robertson's which is more extensive would be more likely to be called hyperplasia than Pinkus' which is minor, is that not so? --- The tongues of epithelium coming over, that is not hyperplasia in the sense of looking at the epidermis as a whole.

But the tongues have met and they start going up? --- When they start going up now it eventually becomes hyperplastic, yes.

Is that hyperplasia as they go up? --- They reach the stage of hyperplasia, yes.

Is the process of going up hyperplasia? --- That would be regeneration to a certain stage.

Is it hyperplasia? --- No, it is not hyperplasia.

In other words, this phase that Pinkus describes cannot be hyperplasia if one uses the same terminology as Robertson, is that so? --- What I can't understand is that the epithelium in Pinkus' case also becomes thicker to my mind than the surrounding undamaged epithelium and this to my understanding of the word means this is hyperplastic.

MR. MAISELS: You know, forgive me, but I shall try to demonstrate something in quite a different way. Somebody was once asked in South Africa when is a millionaire not a millionaire and the answer given was nine times out of ten. I shall try to show that the same thing applies with regard to your definition of hyperplasia. Now let's take the next one, page 441, the passage beginning according to your notes

under comment, 9(5), sir, under comment. "Furthermore, the regeneration is accompanied by hypertrophy which seems to be directly proportional to the regenerative process", that is correct, it has nothing to do with hyperplasia? --- That is correct.

The next one. Now we go, sir, to a book, "Gillman et al", an article written in the British Journal of Surgery, Volume 43, page 142. Unfortunately, sir, we haven't got a duplicate and I have tried to .. I am now passing on to the next authority which the Professor was good enough to refer us to, that is a passage in a paper written by Gillman and others in the British Journal of Surgery, Volume 43, No. 178, September, 1955. The heading of the article is "Re-examination of certain aspects of the histo-genesis of the healing of cutaneous wounds" and is called a preliminary report. Is that the article? --- This is the article.

And the first passage you referred to was at page 142, reading as follows: "The epithelial regeneration results on the amoeboid movement across the injury of epidermal cells adjacent to the incision", is that the passage? --- That is the passage.

"And subsequently by the mitosis of cells some distance from the line of the incision. The new cells regenerated by such mitotic activity migrate across or perhaps through the clot which bridges the gap. The mitotic activity in the epidermis neighbouring the incision is considered to be associated with some hyperplastic thickening of the epidermis, is that correct? --- That is correct.

And that is referred to/^{fig.}198(b), correct? --- Correct.

Now this is the, the autor says, the orthodox

which is not acceptable to the writers of this article, is that correct? --- I can't remember that particular passage.

What they set out, if you read the purpose of it, the healing of incised wounds, it starts of, "current view on the pathogenesis of the uncomplicated healing of sterile surgical incisions are summarised in fig. 198(a) to (a), do you see that? --- That is correct.

And then look at page 143, the top of page 143, now let's look at this. Let's accept for the moment the orthodox view. Now will you look at the illustration on the orthodox view? --- I have got the illustration,

That happens within 24 to 48 hours after the operation? --- That is the second ...

According to that description that is hyperplasia? --- Yes, this is the second picture from the top you are referring to.

Yes, the orthodox view which I have read to you in the passage beginning the epithelial regeneration on page 142? --- That is correct.

And the figure which demonstrates this is fig. 198(b)? --- That is correct.

Which is on page 143? --- That is correct.

And that shows that this is 24 to 48 hours after the operation? --- That is correct.

So we are not assisted in the 9 to 12 days are we? --- I again mention that I only use these facts in these papers to illustrate my view point that there is such a thing as hyperplasia and I'm not trying to attach any value to the age for the simple reason that here we are dealing with an incised wound and not with an abrasion.

/ This ...

This is of no value at all then, this paper? ---
Except for the fact of hyperplasia.

Yes and actually when Penn and the others who wrote this article dealt with it - by the way, perhaps we should just draw your attention to this, in 9(d), would you just look at the orthodox view, paragraph 6, page 142 within 5 to 15 days of the injury (fig. 198(c)) the number of vessels in the wound diminish, fibroblasts predominate and reticulant and collagen fibres are deposited. The epithelium covering the incision may still be thicker than normal at this time".
What is that intended to show? Why do you refer us to this?
--- This indicates that there is still hyperplasia, that is how I interpret it, it doesn't say it is hyperplasia.

Of course it doesn't, it may be hypertrophy? ---
It just says it is thicker.

Yes, well why do you interpret that as hyperplasia?
--- But previously he mentioned hyperplasia and in reference to Robertson's work also mentions hyperplasia which regresses after, as Robertson says, after the 12th day.

You can get hyperplasia within 12 to 24 hours, can't you? --- In certain areas, yes.

What do you mean in certain areas, at the edges?
--- At the edges, yes. That's right.

So how does the hyperplasia that you say you found support you in your extended period? --- We are coming back to Robertson's work now ...

No, we are not coming back to anything, just answer that question? Don't worry about books. --- This hyperplasia that is present in these particular wounds is of the type where you get invasiveness with pseudo rete pegs forming.

/ Pseudo ...

Pseudo rete pegs, we will deal with that in a moment, is that the reason now? --- That is the reason why I say this is a different type of hyperplasia than the type described here at 24 to 48 hours.

Where is this described as the edge of a wound in this article? --- In figure 198(b).

And this, I'd like to show this and I'm going to suggest to you that answer of yours is not in accordance with the facts. The ones on the left-hand side, sir, are the original ones. Are there any pseudo pegs or rete pegs in 198(b)? --- No, there are not.

Well then, what was the meaning of that answer? --- That at a later stage the hyperplasia will be so massive that it will become invasive and form pseudo rete pegs but not at this early stage.

Let's get on with the next one because I want to end with you sometime. Page 143 of that article there is a passage which talks about "24 to 48 hours". Would you mind just reading that passage to me, please. --- "The most notable points about the ... anatomy of healing incised wounds at this time are (a) the distinct thickening of the portion of the epidermis which noted above becomes inverted".

At what time is that? --- This is 24 to 48 hours.

At the edge? --- At the edge.

So that doesn't take us any further. Let's take the next one, page 144, 5 to 8 days, the passage that you talk about, just read that please? --- The paragraph I refer to, "not only has the epithelium bridged the incisional gap below the small surface blood clot but it, the epithelium, has thickened notably at the edges and within the invariably

/ v-shaped ...

v-shaped inverted surface of the wound. So hyperplastic has the epithelium become within the wound at this time that numerous well marked epithelial spurs are regularly encountered invading the sub-epithelial tissue around the surface portion of the incision".

At what days? --- 5 to 8 days.

5 to 8 days? --- In an incised wound, your Worship.

Now you see, you are referring to incised wounds when it suits you, when it doesn't suit you it becomes an incised wound? --- No, I must stress again, that these references I quote are mainly for the purpose of supporting my view that there is such a thing as hyperplasia with invasive spurs. I do not take into consideration ...

Who has ever denied that that you can have hyperplasia with invasive spurs? --- I am also trying to indicate that I think in the case of these wounds we had examined, that there is this type of hyperplasia with this type of invasion.

Sir, this one here, 5 to 8 days after operation, that is the kind of picture that we talk about where you get your spurs? --- That is correct.

Did you see that in any of the slides in our case? --- To my mind, yes.

To your mind, yes, nobody else saw it? --- Apparently yes, sir.

And these spurs, by the way, doctor.. by the way just let's get it clear that we understand what we are talking about, this illustration I have just shown you here on page 147, No. 199(c).. I beg your pardon, at 199(c), what does that represent ... --- Well, I'm afraid I haven't got 199(c)..

If you look in the article it is 199(c)? --- I have

got 200 and 201 on page 147, your Worship.

I'm sorry, 201(c), you are quote right. Now these incisions shown on page 143 on the right-hand side by Gillman and Penn? --- Yes.

How were they done? --- These were incised wounds.

Were they? --- Under the figure ... illustrating authors' views on the healing of incised wounds, this is 199(c).

Closed by a stitch? --- Closed by a stitch.

Now look at page 147, what are those? --- These are excised wounds as represented by the uncomplicated healing of thin split skinrafts

No stitching? --- There is no stitching here.

No incision? --- No, this is an excision, not an incision.

It is equivalent, try to get as near as you can, to an abrasion? --- Yes, it could be so.

That is on page 201, figure 201? --- That is correct.

Now just look at (c)? --- Yes.

Do you see those figures there? --- I see them.

At what stage do they appear? --- (c) is at 6 to 10 days after operation.

If I were to suggest to you, doctor, that in any one of the cases and any one of these injuries could have been caused 6 days ante mortem what would you say, these abrasions? --- I would not be prepared to agree.

of course
And/if I were to make a horrible suggestion it would be 4 days it is quite out of the question? --- To my mind, yes.

And it is again on this sort of evidence so far...
--- Using Robertson as basis, yes.

Oh I think you have been asked about Robertson's paper already. Then let's go on to the next one. Page 145

of that paper, the passage reading, paragraph 6, sub-paragraph 6 of paragraph 5, page 145, "excessive epithelial hyperplasia and invasiveness detectable at the healing incision are invariably encountered also at the suture needle puncture wounds in the epidermis". Is that the passage? --- That is the passage.

Now that means and it shows, figure 199(d), 10 to 15 days after the operation? --- That is correct.

Well who quarrels with that? ---I'm not quarreling with that.

But how does it assist in this case? --- The fact that there is excessive hyperplasia and in this case 10 to 15 days, if you want to use this as an indicator of age, which I did not do, I'm using this only to prove my viewpoint that we have excessive hyperplasia.

I'm sorry, doctor, but so far I haven't been able to follow this reasoning, no doubt it will become apparent. Now the next one is page 146, this is a passage at the third day and between the third and tenth or fifteenth day after injury the new epithelium is thickened and matured into a fully re-organised epidermis? --- I'm not quite sure where you are reading now, paragraph 3?

Yes, that is the one that you referred to? --- No, slightly lower down.

Look at your note, page 146, 3 to 10 or 15 days, isn't that the passage? --- I'm sorry, I misread that one, sorry. I was on the next one already.

That is quite alright. "At the 3rd and, between the 3rd and 10th or 15th day of the injury the new epithelium has thickened and matured into a fully re-organised epidermis"? --- That is correct.

This is not necessarily hyperplasia, is it? ---
It doesn't describe it but I took it as being hyperplasia.

It merely is the description of a thickening? ---
That is right.

But you took that as hyperplasia? --- That is
correct.

And it so happens that even if it is it is not
acceptable to Gillman and Penn, the writers of this article?
--- I'm not sure about that.

Well, take the time and read that at your leisure,
it is not important. --- Oh I see what you mean, this is where
they describe current views and they have not come yet to
their own views. Alright I will accept that.

Quite right. --- For the time being.

In any case, the point is it is there on the third
day ... --- Or the 15th day.

Yes, I know. What interests me, Prof., is where-
ever it can be on the 3rd or the 15th, you invariably take
the 15th? --- No, I'm just trying to indicate to the Court
that ...

No, I understand your scientific approach perfectly.
Let's take the next one, 146. It is at the foot of that
page, Professor? --- That's right.

"Epithelial regenerates from the wound edges and
from all the skin appendages in the donor site commences
within 24 to 48 hours. By the 3rd or 4th day the donor site
is completely covered with a thin layer of new epithelium".
Correct? --- That is correct.

And you have to read that with figure 201(a),
correct? --- That is correct.

Now figure 201(a) talks of the position two to three

days after the operation? --- That is correct.

Well now, what is the significance of that? --- I just mentioned this section to indicate the epithelial regeneration from the wound edges, that it starts from the edges.

But this is under your heading of hyperplasia? --- That is correct.

This is not hyperplasia? --- That is correct, this one is not very suitable for that...

Of course not, particularly, the periods is particularly unsuitable? --- I wasn't interested in periods at this stage.

Now let's take the.. just allow me one moment, the feature about these articles is the size of the donor site, what was the size? --- I can't remember.

Well, didn't you read the article? --- I did read the article but I read so many articles, I can't remember all the details in all of them.

You are quite right. --- I can't remember.

But it is a very large site? --- I can't remember.

You see, in the final article written by Gillman and Penn which was in the Medical Proceedings in 1956, in the following year, this article that we have been reading from is a preliminary article, they describe the procedures. They say the surgical and histological procedures in this study were identical with those previously detailed. Sir, I'm reading from volume 2 on the Journal of Medical Proceedings, 1958, page 151.. 156, volume 2. "The surgical and histological procedures in this study were identical with those previously detailed. grafts, about 6 to 7 inches long by 4 inches wide were removed with a blare knife from the antero medial aspect of the arms of 13 human volunteers and it was that sort

of slide which had this sort of result, covered in two to three days. Any comment? --- I have no comment except that I got this reference from Robertson, Robertson in his article refers to this article.

You don't rely on it. Well let's get on to the next one then. No. 15 and please tell me, before I trouble the Court by reading it out whether you use this in support of your hyperplasia theory. you don't mind if I use the term theory, do you? --- No, you are welcome.

I mean I don't want to use a wrong term because it is only a theory at its highest, isn't it? --- I believe I see it there, so it is not a theory as far as I'm concerned.

Right, it sometimes happens of course that a wish is ... to the thought but that is not your case? --- I am sure it is not.

Page 147... 4 to 6 days, is this the passage? --- That is the beginning of that paragraph, yes.

Would you just first of all read it to yourself and tell me whether you consider it relevant to what we are discussing because the last one plainly wasn't, so just tell me. --- It is.

Well, then I will read it. "4 to 6 days after the infliction of the injury a glycogen and protein rich exudate appears directly below the new epithelium and raises the latter up in a blister like fashion. At this time, therefore, the new epithelium is connected with the donor site only at the wound edges and at the new orifices of the skin appendages". And then your passage begins. "The newly regenerated epithelium thickens somewhat at this stage as does the untraumatized epidermis at the wound edges. The regenerating epithelium which is distinguishable by its heavy

load of glycogen and by the absence of a stratum granulosum seems to be derived primarily from the stratum spinosum of the untraumatized neighbouring epidermis and from the equivalent thereof in the skin appendages". Is that the passage? --- That is the passage.

But this is merely a description of thickening, isn't it? --- Yes, but if one refers, your Worship, to a previous description of the thickening at the wound edges, I maintain that this is also an indication of hyperplasia.

Well, then we are back to square one. But then there is another interesting, even if it were, it is 4 to 6 days? --- Yes, that may be so.

And it is at the edges? --- That may be so.

And it is older at the edges? --- Yes.

So how does that support this extended period? --- I stress again I refer to this literature only to support my viewpoint that there is hyperplasia in the sections I saw.

But this isn't hyperplasia, this is thickening, we have just agreed that? --- I have just explained that this thickening to my mind seen in context with the whole paper indicates to my mind hyperplasia, granted not at the advanced stage of rete pegs.

You see, this passage, I would like to suggest to you supports not only Dr. Gluckman with regard to whether it is Hyperplasia or not but also with regard to age, doesn't it, a fair reading of it? You can't see it? --- I don't agree.

That is alright. Then I think we will come to your last reference on hyperplasia, Hinshaw and Miller. I don't know, sir, whether the learned Assessor would like a loan of this. And then the last one is Hinshaw and Miller, page

661, this is an article from the Archives of Surgery, Volume 91, No. 4 of October, 1965, at page 661. It is the passage which reads on the right-hand column? --- That is correct.

On page 661, just above the illustration, the figure at the junction of the undisturbed skin, the dermal site, the epidermis overlying the undisturbed area begins to become hyperplastic and there is a mild leukocytic infiltrate just beneath these epithelium cells? --- That is correct.

Is that the passage? --- That is.

Now when, at what time does this happen? --- I don't know.

Well just look at the beginning of that paragraph, Professor? --- Yes. At three days the most superficial portion, etc. etc.

Well, does that support your age theory? --- These are donor sites, I did not take this into consideration in determining the age.

So this ... --- I was just trying to prove my point of hyperplasia.

But you know, I have got some difficulty. You take one paragraph out of a book, and out of many papers? --- Yes.

The part which shows that you can get hyperplasia that is good? --- Yes.

The part that shows you can get hyperplasia at three days, four days, five days, that is no good? --- My problem is this, that all the other papers that I have read deal with incised wounds, excised wounds, donor sites which are not abrasions and we are dealing with abrasions.

PROF. SIMSON: Prof Koch, what is the essential difference between a donor site from a pierce graft ... in an abrasion? ---

I'm not an expert on the depth of donor sites and pierce grafts but I gather that you can get, well they usually include the whole epidermis and part of the dermis.

And abrasions? --- Well, abrasions can be imprint abrasions where you do not get immediate damage of the underlying or immediate necrosis of the underlying dermis.

But you described yesterday in Section A, I think it was, necrotic collagen underneath the ...--- Yes eventually this will become necrotic.

But is that not due to the damage of the abrasion?
--- Yes, to the original damage, that is correct.

.... (both speaking together) .. difference essentially? --- The other abrasions, not the imprint type can be superficial, they can be very deep, they can vary a lot. But there is a similarity, I agree.

MR. MAISELS: But that is the whole object of the pierce graft, the whole idea is to try to reproduce as clearly as you can this object, the same thing as you get in an abrasion?

--- That is correct.

Well, then therefore that distinction falls away, the one that you tried to make? --- Well,...

Or don't you know about the pierce graft? --- I don't know sufficient except from the literature, I haven't had personal experience with pierce grafts and I can only say that Robertson, who was au fait with this literature, felt it necessary to do special work on abrasions.

Now there is another very interesting observation which is relevant to this case I suggest to you in the same passage in Hinshaw and Miller which you have not referred to. Look at page 661 and the part that you referred to is part of the paragraph which begins as follows: "Histology of

Healing. (a) Donor sites. In describing the histology of wounds it is not strictly accurate to assign a definite time for the occurrence of each event". Do you accept that? --- Yes.

"The histologic changes in one area of a healing wound on one day may not appear in the adjacent area for another day or two". In other words, that is what Robertson was trying to tell you in that passage which was put many times to Dr. Gluckman. In other words, you get stages where things are more prominent? --- Yes.

But the whole process goes on? --- That is correct.

Yes. Because he goes on, the same author makes the same observation as Robertson does, "nevertheless at any one time in most of the experimental wounds some processes of repair are much more prominent than others"? --- That is correct.

It is a pity you weren't referred to it earlier, it might have saved a lot of questioning. Page 666, of the same paper, is your next reference and your last one on hyperplasia. The passage you referred is, I think, on page 666 of this article and reads "many epidermal cells are vaculated or have a ghost-like appearance and there is no mitotic activity in the epidermis". Is that the passage? --- That is the passage.

I think it would be better to start at the beginning of that passage, don't you? What does it say? --- Beginning at 3 days?

Yes. --- "At three days the bed of the graft consists of widely separated fibroblasts, leukocytes, large vascular channels, proliferating capillaries and some areas of haemorrhage. The bed is not nearly so big as that for the split thickness grafts (6 and 10). Many epidermal cells are vaculated or have a ghost-like appearance and there

is no mitotic activity in the epidermis".

This is not hyperplasia? --- This again is to indicate the hypertrophy which to my mind is necessary for hyperplasia.

But this is not hyperplasia? --- It is not hyperplasia as such. I agree.

But it is not hyperplasia as such? --- This is hypertrophy but hypertrophy I regard as part of hyperplasia.

And in any case it is three days? --- Yes, that may be so.

So why was it necessary to refer us to this? --- To stress my point that I believe there was hyperplasia in the sections we examined.

I think you will agree with me, Professor, every single one of the references that you gave us on hyperplasia, is that correct? --- What about them?

It is on those authorities coupled with what you say you saw that you say is an important feature, I won't put it higher than that at the moment, in lengthening the ante mortem period? --- That is correct.

Have we left any single reference out? --- Not as far as the hyperplasia itself is concerned but then there is also my references with regard to the rete pegs.

Yes, contain yourself, we will come to those. Now let's talk about rete pegs and I don't think I will talk about them for a very long time, I hope I haven't been too long, I promised to finish this witness as soon as I can.

Your next reference is, now we are coming to these things called the rete pegs. The first reference is Pinkus, 433, is that the one? --- It is.

... (not in microphone) .. 433 in an article on

/ the ...

the examination of the epidermis by the strip method by Dr. Pinkus which we referred to earlier, correct? --- That is correct.

Now if you turn to page 433, the passage that you were good enough to refer us, of the early results of this stripping, is that correct? --- That is correct.

The second-last line, "the basal cells are larger and more widely spaced than in the normal state and the rete ridges and papillae are flattened". Is that the passage? --- This is the passage and I may set my learned friend's mind at rest, this does not refer to the formation of rete pegs afterwards, this is just an interesting phenomenon to me as regards the disappearance of the rete pegs at an early stage in Pinkus' experiment.

This refers to a change half an hour after the stripping? --- I'm not quite sure how long but this is an early change. But you can disregard this one.

So shall we score this one out? --- Yes, just leave it out.

Alright but just so that we understand how your mind is working, this is half an hour after stripping? --- Yes, this was just an interesting phenomenon he describes.

No doubt it is my fault but I would appreciate your telling us if these were interesting phenomena and not relevant? --- May I just indicate that these references are notes I made were for my own use and for Counsel's use and were not prepared for the use of Mr. Maisels, so irrelevant things may be present in this.

Prof. Koch, I am most appreciative of the fact that you were good enough yesterday afternoon to give us the authorities, you remember how it started, I said to save ^{the} /time

the Court would you give this to us so that we can look them up. But anyhow as far as this one is concerned it has got nothing to do with the case? --- Nothing to do with it.

Let's take the next one, 19. Now just so that we don't waste any time, it is on page 436, is this again just an interesting observation which is of no relevance? ---If I may just get hold of this specific reference.

I think you have got a typing error in your notes, it should be 36 hours? --- Yes. At 36 hours the epidermis appears consolidated, basal cells and prickle cells are hypotrophic and new start on granulation begins to form beneath the cells. Some rete ridges are seen and the corium shows hyper.... with mild inflammatory changes." At this stage ridges may start forming but that ridges are forming in this hyperplastic epithelium.

But isn't this hypertrophy? It says so? --- The prickle cells are hypertrophic but again to my mind this is all part and parcel of the hyperplasia ...

Whenever we see hypertrophy ... --- No, no, you must read the hypertrophy in context.

That is exactly what I'm trying to do. --- That is what I'm trying to do, that is how I see this whole thing, hypertrophy is part of hyperplasia. You must get enlargement of the cells to eventually get hyperplasia.

But it is not the same, is it? --- It is not the same.

That is where we started? --- Yes.

And this refers to hypertrophy, doesn't it? --- And the formation of the ridges are described by Robertson as hyperplastic.

The next one, page 436, the same page, the passage

/ beginning ...

beginning the lower contour, it is just above ... --- Yes, I see it.

I think you better start reading, in fairness to yourself, the sentence beginning just above the table 1. --- It says 72 hours numerous cells in all stadias of mitosis, the epidermis has practically doubled its normal thickness, much of the original cell bacteria is being sluffed off as a parakeratotic cast and a nuclear horny layer begins to form between it and the multiple ... The lower contour of the epidermis is definitely ridged".

This refer to events at 72 hours? --- I'm not concerned at this stage with the age, I'm just concerned with the formation of the ... (intervenes)

So far whenever the age arises you are not concerned? --- No, by my references here I must stress again, are just to indicate that these things occur and not at what stage they occur, for that I refer to Robertson.

PROF. SIMSON: Prof. Koch, could you tell us what the relevance is of the development or absence of rete pegs in the stripping experiments? --- Well, I already said the first one where I said the rete pegs disappeared is of no consequence.

What is the relevance of the rete peg changes in the stripping where two superficial cells to the abrasions of Robertson where the whole epidermis is lost? --- The point is this that in Pinkus' experiments the basal layers are still existent and according to his description the rete pegs disappear so as to enable these cells to fill at the scab, that is how he describes it.

What is the relevance of this to full thickness epidermal loss, this is what is difficult for us to understand?

/ --- The ...

--- The point is this, as I see it, that Pinkus describes that the rete pegs disappear after the stripping and then they reconstitute.

But isn't loss of the whole epidermis an entirely different story? --- It is different but I was just trying to indicate why I feel that hyperplasia and the formation of particular shapes of rete pegs are important.

But do you think this has any relevance to Robertson's case where the whole thickness is lost? --- Not direct relevance but it works up to a point.

MR. MAISELS: And the last one on that page, page 442.. --- And that you can also disregard, that is also disappearance of rete pegs.

Well, now we will come back to Gillman, 1955 paper, page 144, 22(a). This is the passage I think you referred to. "So hyperplastic has the epithelium become within the wound at this time that numerous well marked epithelial spurs are regularly encountered invading the sub-epithelial tissue around the surface portion of the incision"? --- That is correct.

That deals with hyperplasia, is that correct? --- That is correct.

5 to 8 days? --- 5 to 8 days.

And he is now talking about well developed advanced hyperplasia? --- That is correct.

Now read this in connection with the description on the record of what was found by all the medical men - I don't know whether you agree with this, possibly excepting yourself, in H. Page 659 of the record, dealing with Section H. --- Yes.

I will read it to you slowly but if my learned

friend would like to put a copy in front of you by all means. This^{is}/Prof. Simson's recording of his notes of the examination, the joint examination that took place and he describes epithelial hyperplasia in one section only, doesn't he? --- That is correct.

And he describes it in this way, on line 6 of page 659 with reference to Section H as a small focus of epithelial hyperplasia? --- That is correct.

And that of course is much less than the 5 to 8 days of which apparently has been spoken about in this article of Gillman and others to which I have just referred? --- That is correct.

Is this observation wrong? --- You mean the observation that Prof. Simson mentioned?

Yes? --- I don't think it is wrong.

Is that what you saw? --- I just made it more extensive than he does and as I indicated yesterday the question of hyperplasia was mentioned by learned Counsel for the Police, and the possible differences in the usage of the term, but I indicated I saw more hyperplasia in all the sections.

But even giving you the benefit of a little more, this is 5 to 8 days? --- According to this experiment, yes.

Of course, that wouldn't induce you under any circumstances to admit that any of these abrasions could be within the 5 to 8 day period? --- I did not take these articles into consideration because, I did not take them into consideration as regards determining of age. I did not take these articles of Gillman and Penn and others into consideration in determining the age of these wounds because they were not abrasions in the light that I saw them, even agreeing that there is a similarity between abrasions and pierce grafts.

If a pierce graft is an abrasion, full thickness, surgically induced, is it of any assistance? --- I said that there were similarities, yes.

What similarities? --- Well, there are similarities

...

Very close similarities? --- It could be very close.

You know that with the focus that all the doctors saw, excepting you, was described as a focus, a small focus of epithelial hyperplasia? --- That is correct.

The next one is 22, a passage in the same paper, this is the passage, is it? --- Between the 10th and the 14 15th day the surface ...

That's right, between the 10th and the 15th post-operative day the surface epithelium at the incision is still hyperplastic". Is that the passage? "However the well-marked invasion spurs a prominent feature^{of} / healing wounds between the 5th and 8th post-operative days are now diminished and seem to be replaced by isolated internally keratinizing epithelial ..." Now ~~did~~ you see anything like that in any of these sections? --- Like what, like this degree of hyperplasia.

In our xsections did you see any epithelial.. (coughing, inaudible). --- I think as far as the epithelial purls (?) are concerned in the area of suture lines.

You didn't see any of that in our sections? --- There were no sutures, so I did not see them.

And the emphasise^{is}/on deminish in that passage? --- Yes.

Then let's take your next one, page 148, sorry 147, that is at the foot of the page, between the 15th and 20th post-operative days the sub-epithelial collective tissue

/ becomes ...

becomes filled with fibroblast blood-vessels and collagen fibres. Many of the invasive pseudo pegs with epithelium which were so prominent between the 9th and 10th and 17th to 18th post-operative days now becomes separated from the parent surface epithelium and may take the form of numerous internally keratinized epithelial purls". The comment on that is of course, isn't it? What is the relevance of that in what we are now discussing? --- That the pseudo pegs become ...

What is the relevance of this whole passage? --- The fact that there are pseudo pegs which are prominent at a certain stage.

The 17th to 18th day? --- They can even be prominent at 17 to 18 days and in other instances they can be prominent at 5 to 8 days.

So, how does that assist us in this case? --- I must again stress, your Worship, that I was trying to indicate with this literature why I say and to support my viewpoint that there is hyperplasia in these sections with the formation of rete pegs or invasive spurs.

Well so far, Professor, you will forgive me if I say we have difficulty in following ... --- The fact is that here they describe invasive spurs being present at certain stages and I was just trying to indicate that from the literature.

So, what is the relevance to this case? --- So that eventually I can say I see these and according to Robertson's classification I date this ...

Where did you see it?--- I saw them in the sections. Where? --- Not the purls, I'm not talking about the purls, I'm talking about the invasive spurs.

That was only in one section that you saw it? --- No.

I saw it in other sections.

Well, this is again one of the differences. ---
Yes, the hyperplasia, that's right. The pseudo pegs are included in the hyperplasia, this is part of the hyperplasia.

The last one, Henshaw and Miller, 662. This is a passage, "the rete pegs are blunt and short", is that the passage? Page 662, the right-hand column, the fourth line from the top. --- I am still at page 148, Gillman and Penn.

I'm sorry, I omitted that one. Page 148, it is about eight lines from the top of page 148 on the left-hand column, is that the passage which you are referring to? --- That is correct.

"Thus it was clear from our material that structures described by previous authors as re-appearing at the 9th or 10th post-operative days are merely transient invasive epithelial spurs which are soon eliminated, apparently by the vigorous connective tissue foreign body ... which they revoke and perhaps also by the diminishing vigour of epithelial ... is that the passage? --- Yes.

What is that supposed to demonstrate? --- "And these epithelial spurs" if you will continue.

I'm sorry, "these epithelial spurs may resemble, may even be mistaken for reform rete pegs but since we have shown them eliminated between the 20th and 40th post-operative days we term them pseudo pegs"? --- That is correct.

Now what is the relevance of this? --- I'm trying to indicate that there are such things as rete pegs and to indicate their specific shape when one compares them to the rete pegs in normal skin, to indicate that they are part of what I maintain is the hyperplastic epithelium.

So it is all back to hyperplasia? --- That is

/ correct ...

correct.

And then the last one, the passage which you start "rete pegs blunt and short", that is page 662, have you got that? --- That is correct.

"Rete pegs are blunt and short", that is the passage that you refer to? --- That is correct.

What is that designed to show? --- To indicate the shape of these pseudo rete pegs that indicate the presence of hyperplasia, that is all, I wasn't interested in the age at this stage.

Well, you see now, this is what I find fascinating. These are all your authorities on hyperplasia? --- That is correct.

And we have read, gone through every single one of them? --- That is correct.

In none of them does the age affect you at all? --- I did not say it affects me at all.

Well, on the whole is it fair to say that the time periods where given, if anything, support Dr. Gluckman and Dr. Schepers? --- I mentioned previously that these articles ...

Just answer that question, it is a simple one? --- I feel that I have to indicate that the literature here refers to other types of wounds. I already admitted that the pierce grafts and abrasions are very similar therefore I could not take into consideration in all cases the dates put by these people to the different changes.

You see, Prof. Koch, let me remind you that when you were giving evidence you stated that you based your evidence on your authority and you said on your own knowledge? --- That is right.

The authorities, we have examined every single one

/ of ...

of them, is that correct? --- That is correct.

And I want to suggest to you, deny it if you like, I don't mind, I want to give you the opportunity of answering this question that if anything, none of those authorities supports you in the slightest? --- I did take into consideration what was written in these papers and I may just again refer your Worship to the fact that Dr. Robertson's paper is the latest paper, who also took into consideration the same authors that I have referred to and Robertson apparently does not agree with them. He has done specific work on a specific problem and I'm inclined to agree with his dating of wounds.

With whose? --- Robertsons.

Then with all these other authorities we have just been wasting our time about? --- No, I was asked on what basis I say there is hyperplasia in the sections.

That's right. --- And I said from the literature. I have my authorities to prove that there must be hyperplasia in certain periods and that I see hyperplasia and I have, I imagine, indicated to the Court why I say that what I see is hyperplasia with pseudo pegs. I have not been using this and I have not stated from the beginning that this literature refers to the age, only to the presence of hyperplasia and concomitant changes.

I suggest to you that a proper reading of this literature refers not to hyperplasia but to hypertrophy? --- And hyperplasia.

In most cases... --- I agree, a lot of the references refer to hypertrophy but a lot of them refer to hyperplasia.

And those who refer to hyperplasia do not support your thesis in the slightest? --- Except that I maintain that

hypertrophy is a part of hyperplasia, you cannot get hyperplasia without hypertrophy.

Of course you can't.

COURT ADJOURNS.

THE COURT RESUMES:

PROF. KOCH (n.o.e.)

MR. MAISELS (cont.): Prof. I think we have, as far as I'm concerned, exhausted the topic of hyperplasia insofar as the references which you gave us are concerned. Now you said that hyperplasia played an important part, the hyperplasia that you say you saw played an important part in the conclusion at which you arrived? --- That is correct.

What else? --- Did I regard as important in indicating the age?

Yes? --- First of all the formation of a basement membrane.

What is the authority for that? --- I have got Robertson.

Oh you mean that one passage that we have been through and which the learned Assessor spoke to you about yesterday? --- That is correct.

Well, then I won't waste ... what else? --- And my knowledge of the regeneration of the epithelium as such.

That is all, so I won't waste anymore time on basal membrane. Anything else, what other matters? --- To my mind the degree of redevelopment of melanin in the regenerated epithelium is an indication of the maturity of this epithelium.

The melanin? --- The melanin, that is correct.

Was that not dealt with in the evidence of Dr. Gluckman, you remember Dr. Gluckman being asked about melanin?

/ --- I ...

--- I can't recall the exact ...

Do you remember the fact that this person whose death was described in medical literature as non-co....

--- Yes.

You considered the presence of melanin in non

--- Yes.

And isn't it always there? --- Yes, but when it is absent to me it indicates that that epithelium is not mature and when it starts coming back.

If it is absent it is not mature, if it is there the epithelium is mature? --- That is correct.

But it is always there? --- But in new epithelium it is not there.

Well, does the pigment in the new epithelium always come back? --- Not always and it doesn't come back completely but histologically I could see the differences in the presence or the amount of epithelium in the normal surrounding skin, in the regenerated or hyperplastic skin, whether there is slightly more and in the completely new thin epithelial layers where there is none.

Does Robertson deal with melanin? --- He does not deal with it.

What is your authority? --- This is personal experience and general knowledge of the appearance and disappearance of melanin.

But any authority, any book ... --- No, I haven't got any other authorities on that.

The next? --- Well, the degree of development of the granular layer and keratin.

Granular layers, where did you find those? --- The granular layer before you get the formation of keratin, the / layer ...

layer just below the keratin layer.

And that is all part of regeneration, isn't it?

--- That is correct, indicating the degree of maturity of that epithelium.

Yes, but where does that take you right up to your, outside of the 8 day area? That is all I'm concerned with?

--- Your Worship, I cannot look at a single feature and on that determine the age, I have to look at several features indicating the maturity of the epithelium that was originally damaged and had reconstituted and in this reconstituted epithelium I look for signs of maturity and these signs I have mentioned, the basement membrane, the formation of a basal layer.

You see, I quote agree with you, you have to look at a specimen as a whole? --- That is correct.

And you take each feature? --- That is correct.

And you analyse each feature and then you take them together? --- That is correct.

Now by destroying feature 1, does that have an effect on 2, 3 and 4? --- It does not to my mind.

It does not what? --- It does not to my mind affect my final opinion.

The final opinion is formed as a result of 1, 2, 3 and 4? --- That is correct.

1 disappears.. --- I don't think it has disappeared.

No, we assume. --- 1 disappears, right.

... (question inaudible). --- Yes, it could be.

Hyperplasia? --- Yes,

That doesn't affect your conclusion at all? ---

No, it does not.

Is that a serious answer? --- Yes, it is.

/What...

What is your fourth one, melanin and what is the fourth one? --- Melanin, basement membrane, the general maturity of the epidermis, the epithelium with the formation of a basal layer of cells, with the formation of the granular layer, keratin, the whole appearance of the epithelium as such.

All that you have now been describing is part of the process of regeneration? --- That is correct.

That is all? --- Yes.

And it doesn't assist at all in placing beyond the 8th day? --- If the epithelium has regenerated completely that indicates an even older age than 12 days, to my mind.

Well, Prof. Koch, we have got the evidence of what was found and I'm not going to argue with you about the regenerated epitheliums, we must make an end to this. I just want a few general questions now. You wouldn't care to hazard an opinion with regard to the severity of a bruise or would you care to without having seen the bruise? --- It would be difficult to voice an opinion on a bruise that one hasn't seen but in general one could give for what it is worth, an opinion.

I don't want to ask you any questions about a bruise excepting one? --- I will try and do my best.

Professor, I quite understand and that is why I remarked in this way. I want you to take N and O. --- Could I just have a copy of the Schedule.

Oh, I'm sorry, Exhibit KK. --- Yes, I haven't it with me.

Have you got the photographs? --- I have the photographs, yes.

Now would you just look at photographs 4 and 6.

/ Mine ...

--- Mine aren't numbered.

They relate apparently to tissue or reference N, on the left forearm which is described macroscopically as being an abrasion measuring 2.5 cm by 4 mm covered by a scab, that is 1 inch by a quarter of an inch. --- I have got that one.

Would you care to hazard an opinion, if you say you can't, as to how that abrasion could have been caused, if you say you can't you can't? --- It is a linear abrasion.

Is that all you can say? --- And it could have been caused by any type of blood force.

The next one, O? O is the multiple bruises on the left side of the chest? --- There is no more accurate description, I am not sure whether Dr. Schepers in his report gives a more accurate description.

This has been taken verbatim, have you seen the photographs, photographs 5 and 6? --- The photographs are rather indistinct, one sees over a fairly wide area several ...

Perhaps I can show you a more distinct one. 5 and 6, which ones have you got there? --- I have got 5 here. On these two pictures the discolourations I see are more obvious, they are spread over a fairly wide area. They consist of several distinct or separate areas of discolouration and some that appear confluent, probably about, I have to hazard a guess, about 4 inches by an inch and a half ...

I didn't ask you to measure, it is very difficult, I wouldn't ask you to do that. --- I'm just trying to describe what I see because I haven't seen these originally.

I'm just talking about there are a number of small bruises there? --- And some confluent ones it appears to be.

How would they be caused do you think? --- This

/ also ...

also indicates blunt force. But I wouldn't like to hazard an instrument or how these could have occurred, I mean it is difficult to determine.

Do you mind counting them? There seem to us to be about 11 we can count, it may be 10? --- That could be, as I say some of them appear confluent and it could quite easily be 10 or 11.

Well, that is fair enough for my purpose. Now that would indicate ordinarily speaking the application of several blows or the application on that part of the body against some blunt instrument of some sort? --- That is so.

It couldn't be caused, could it, by somebody, it has been suggested I think, of going past a wall ... --- I think a wall, if I understand, is it just a flat wall or is it a corner of the wall, if it is the flat wall I doubt whether this is possible.

And if it was the corner you would have to do it ten times? --- Yes, that is the other point.

Or even if a man fell, unless he fell on some of those things as an Indian is supposed to lie on ... --- I understand they are rather sharp.

(MR. MAISELS NOT STANDING NEAR THE MICROPHONE, FINDING IT VERY DIFFICULT TO GET THE QUESTIONS).

I mean that is the sort of thing? --- On the rocky soil I would suggest.

If he fell on a very rocky place with a lot of protruding stones, something like that? --- Yes, either that or several blows with a small instrument.

It would have to be that kind of a fall if it was a fall? --- That is correct.

And then of course if those bruises, if a man was

/ clothed ...

clothed... I don't know, perhaps you can help me on that, is he more likely to get a bruise from a blow on the naked skin or, than through clothing? --- It depends on the thickness of the clothing.

And on the force of the blow, I suppose? --- And on the blow.

Clothing of course would protect an abrasion? --- Depending on the instrument.

Quite. --- Normally, I would say it does protect to some extent.

Now if you look at N and O, their situation, I want you to just visualize something as a possibility because lots of possibilities were put to our doctors. Supposing a man were lying on the ground and he was kicked and look at the situation of the abrasion on the left forearm and look at the .. assume that that was, that he had his sleeves up, you see. Just try and picture this? --- Yes.

But he had his shirt on or jacket on or whatever it is. There is a sort of connection between those two, isn't there? As a possibility? --- One can visualize a possible connection, yes.

And even one could visualize a probable connection? --- I wouldn't like to go as far as that.

No, well, I accept that, it is the sort of thing that occurs to one and may I put it this way, Professor, that it is the sort of thing which, with all due respect, a person like myself who is completely ignorant on pathology, can express an opinion just as well as anybody else because this is a matter of what one sees? --- Yes. I would regard it as a possibility.

Then just to finally summarize, could I have those

/ photographs ...

photographs back please. --- Yes.

The bruise situation as far as I can see, you are at one with Dr. Schepers and Dr. Gluckman excepting where they say 1 to 7, 1 to 8, you go further? --- I go further and I have already mentioned that the presence of the fat necrosis ...

The early fat necrosis? --- The early fat necrosis probably puts it beyond the 1 day period.

Well, we have discussed that yesterday and I don't want to go over it again. Then with regard to the abrasions you extended the period the period beyond the eight days? --- That is correct.

On your evidence it is impossible for any of these abrasions to have occurred prior to eight days? --- Highly improbable.

Notwithstanding the evidence of Dr. Gluckman and Dr. Schepers? --- That is correct.

And that is based, just forget yours, on the reasons that you have already given us? --- That is correct.

And there is nothing you wish to add to that? --- Nothing that I can recall at the moment.

In other words, it is based largely on what you say you saw and what the others say they didn't see? --- That is correct.

And if by some misfortune you should be wrong on what you say you saw, then it follows that you agree with Dr. Schepers and Dr. Gluckman? --- If it is proved that I'm wrong, I maintain I am not wrong.

No, I say it does follow.. --- It is obvious.

And of course, may we take it that if it is proved that you are wrong, the whole of your evidence disappears, not

/ only ...

only the 4 to 8 because then you can't even compete on the 4 to 8, you haven't applied your mind to that? --- I have applied my mind to that.

Well, what do you say on their findings? What do you say on the findings as recorded as to what was seen by Dr. Simson, as recorded by Prof. Simson? --- On the findings of Prof. Simson disregarding for the moment the hyperplasia, as I see it, I see in the description by Prof. Simson the following. Regenerating epithelium more towards the centre of the area as he describes it, more laterally regenerated epithelium which to my mind means that this has developed further than is practically normal because in other sections he mentions reasonably normal epithelium. I maintain that this indicates, the regenerated specifically, that this isn't completely normal epithelium, this is epithelium that had been damaged, that had to regenerate. In other words, this is at a stage of development where it is practically normal. And on top of that we see in several sections remnants of scab.

PROF. SIMSON: I think as a point of fact, I should correct that impression. We did define regenerated as epithelium ~~that~~ has regenerated up to the stage of keratin formation. --- Yes, I will have to accept that from the learned Assessor. Then one remains with reasonably normal epithelium that has been mentioned in certain of the sections. I see in a reasonably normal epithelium an epithelium that has developed to such a stage that there is not much difference between this and completely normal epithelium. And if one takes on top of that the remnants of scab or necrotic epithelium that overlies this regenerated or reasonably normal epithelium, I maintain that it puts it at the 12 day period.

/ MR. MAISELS ...

MR. MAISELS: So do I understand your answer to be, I hope I haven't misunderstood you, if I have.. that forgetting all about hyperplasia which you say is there and which the other say isn't there, forgetting all the other things which you say you saw and which the others didn't, that, all that notwithstanding it would still be, it could not be within the 4 to 8 day period? --- That is my contention, yes.

Is that your answer? --- Yes.

Well then it brings me to this next question, I was hoping I wouldn't have to put it to you. You were brought into this case according to what Counsel informed the Court at the time when Prof. Schepers, Dr. Schepers was getting into the 4 to 8 period? --- I don't know when I was called in.

MR. CILLIERS: I don't know where my learned friend gets that from, that is not what I said in this Court. I said, to the best of my recollection, I will be subject to the record of course, is that the question arose, I one day announced with your Worship's leave I would like to have Dr. Koch sit next to me to assist us in this matter and when the question of the cross-examination of Dr. Schepers arose I said that there was a conflict between the witness .. the conflict of course was, I just want to make clear what I'm talking about, I'm referring to the period how far beyond the 4th day.. not important conflict because they both referred to periods outside the fourth day but that is all that I remember that I said in this Court about Dr. Koch's presence. I will be subject to correction from the record but I don't wish my learned friend to put anything to the witness if it isn't exactly what arose. And I do not think there can be any connection between what I said, that Dr. Koch was being
/ consulted ...

consulted at a stage when Dr. Schepers got into the 4 to 8 day period. That, your Worship, is not correct at all.

MR. MAISELS: Well, if I misunderstood my learned friend then I misunderstood him. I am at the moment trying to find the date, you know when it arose, it arose when I objected to certain questioning of Dr. Schepers by my learned friend on the basis that the questions were leading questions. He then explained how this arose. This is where I got it from, sir, page 777. I don't want to read the first part where my learned said that I had no objection to his speaking to Dr. Schepers. In fact, sir, your Worship will recall that this was a matter discussed in chambers and of course he had to consult with him. That was before he was called. And then he says, "it transpired in the consultation I had with Dr. Schepers that various things which Dr. Schepers said were shall I say, favourable to the case which my learned friend has been seeking to establish. I then consulted Dr. Koch and with your Worship's leave it has been indicated that Dr. Koch will be called, will be allowed to be called as a witness. The position has therefore arisen that (not in microphone, inaudible) .. My interpretation of that, sir, was based on the ..." (Mr. Maisels continues but not in microphone)... and that is why I thought he was going to call him. If I'm wrong on that then I'm wrong on it. It doesn't really matter to the case, sir, and I'd rather not have this kind of debate with my learned friend so I won't pursue that topic. NO FURTHER QUESTIONS.

MR. CILLIERS: Your Worship, if we can just clear up the reference there, the reference to matters which I said is ... favourable to my learned friend's case, these were possibilities that Dr. Schepers said could exist and which

Dr. Koch says he excludes. That is as far as it went. It transpires that the conflicts have been largely resolved because they proved to be no more than possibilities.

Your Worship, may I ask Dr. Koch a few questions?

COURT: Yes, certainly.

MR. CILLIERS: Dr. Koch, Prof. Simson raised with you the opening of your evidence the question whether the fact that the scab had on the abrasions not been fully shed may be an indication or should be taken as an indication of the maximum age of the abrasion, if one follows the guidance given by Robertson in his article, would that be a fair way of putting it? --- That is correct.

And as I understood, I think what you said then, that you said that the scab had been shed in your opinion in some cases in the more peripheral area of the scab while a part of the scab remained in the centre of what had originally been a larger scab? --- That is correct.

Does Robertson anywhere in his article deal with this situation of the scab being progressively shed in parts or does he not deal with the phenomenon at all? --- As far as I recall on page 22 he just mentions that the epithelium is producing keratin which leads to shedding of the scab.

That is the only reference? --- That is the only reference as far as I can recall.

So is it correct, Prof. Koch, that this does not deal with the question of a scab being partially shed and remaining in the central part, it doesn't deal with that ^{one} way or the other? --- It just says that the keratin causes eventual shedding of the scab, that is how I understand it.

Now the part that you have just read belongs to the paragraph of the 5 to 8 day period that Robertson refers

to, is that correct? --- That is correct.

Does he say anywhere to your knowledge at which stage the scab has been shed? --- Except for the one picture on page 22, the scab has been shed from this abrasion ten days old. I can't recall any other mention of the process of shedding or complete shedding of the scab in this particular paper.

Do you understand the words "leads to shedding", to have been already shed? --- No, I understood this as that the keratin is the eventual factor that causes the scab to be shed and it is logical that when keratin starts forming that is the beginning of the process that will lead to the eventual shedding of the scab.

I'm coming now to the aspect of rete pegs as one of the phenomena of hyperplasia that you referred to and I should say immediately when I refer to rete pegs I refer to these pseudo pegs? --- That is correct.

On page 22, in that last paragraph, shall I say I'd like to refer you to that last paragraph, is there anything there that you think has a bearing on the question of hyperplasia as Robertson uses the term and connecting it with pseudo pegs or don't you think that assists in any way? --- In the last paragraph under the, the paragraph where he discusses the 5 to 8 day period, he describes this: "Whilst the sub-sub-epithelial activity proceeds, the overlying epithelium becomes progressively hyperplastic, and its appearance, in our opinion, is not really that of reconstituting rete pegs;"

Do you know what it means when he says not really that of reconstituting rete pegs, what is it? --- This to my mind is the increased thickness, the activity of the cells,
/ the ...

the enlargement of the cells, the hypertrophy of the cells leading to hyperplasia of the epidermis but not yet to the stage where you get the formation of rete pegs.

At what stage is this, according to Robertson, this hyperplasia most prominent?

PROF. SIMSON: I think, Prof. Koch, that Robertson illustrates his hyperplasia, he has a picture of what he regards as ... He does.

Does that conform with your description that it has not yet reached the stage of the formation of rete pegs? If you refer to fig. 5 on page 22, is that area of epidermal ingrowth deeper or shallower in a rete peg? --- I still don't quite follow your question?

Have a look at the illustration, fig. 5 on page 22 of Robertson's paper? --- Yes.

He illustrates hyperplasia? --- Yes.

Is that area of hyperplasia, of ingrowth, deeper or shallower than a normal rete peg? --- In some areas it appears perhaps slightly deeper... (talking together)

... what he is referring to is something that has not yet progressed to a rete peg cannot be correct? --- I interpret this section I just read as a period before this one he illustrates.

But he illustrates what he means by hyperplasia, this is the only definition that we have of hyperplasia, what he means by hyperplasia, is that not so? --- That is correct, as far as this paper is concerned but from my perusal of the literature I have ...

We are referring to Robertson's definition, it doesn't help us, does it, Prof. Koch, to refer to the literature, we want to know what he means by hyperplasia and

he was not referring, is this not correct, he was not referring to a lesion which is shallower than a normal rete peg? --- Well, as I mentioned yesterday I have had occasion to phone Dr. Robertson and I mentioned the hyperplasia to him with special reference to the hyperplasia slightly lateral to the wound outside the actual wound edges. I also had occasion to discuss with him this hyperplasia by means of a case that I was involved in when he was here in September and he indicated to me on this section the hyperplasia he describes. So I maintain that I understand fully...

This is shallower than a normal rete peg? --- No, I think it was rather deeper.

This is in regard to your assertion now, Prof. Koch, this is my problem, that he is describing something that has not yet progressed to what would be a fully developed rete peg, this is what I fail to understand? --- Your Worship and learned Assessor, I gathered from Dr. Robertson's description and his indications on this picture that I had of this particular case the hyperplasia is to such an extent that the rete pegs in this particular section compared to the normal skin at the sides was deeper, in other words they extended deeper into the skin and they were broader than the normal rete pegs.

Therefore your assertion that you have just made now that he is describing something that has not yet developed that far cannot be so? --- Yes, but this development has to begin somewhere and the position I am describing is the progressed stage which appears from the 9th to the 12th day and here he describes 5 to 8 days it starts becoming hyperplastic and not really that of reconstituting rete pegs. And I gathered that this is an earlier stage of hyperplasia

which then develops to this pseudo peg.

MR. CILLIERS Dr. Koch, when you started your evidence the learned Assessor asked you some questions and you raised with the Assessor the question or you raised with him the illucidation you obtained from Robertson on what signs occur at the 4th day period and what signs at the 5th day and the significance of the difference between the 4 to 5, or the period starting after the 4th or 5th day on the one hand and the scope of 4 to 8 days on the other hand? --- That is correct.

You gave some illucidation of that and I didn't quite catch that when you gave it. Could you just explain again why there is this apparent difference as Robertson illucidates to you, on the one hand the period following on the 4th or 5th day and in the final summary the 4 to 8 day period?

PROF. SIMSON: I don't recollect having discussed that.

MR. CILLIERS: I have a distinct recollection that in the discussion that took place between the learned Assessor and the witness, Prof. Koch explained that because he had this difficulty he telephoned Dr. Robertson during the course of these proceedings and that he got an illucidation from him...

PROF. SIMSON: This is in relation to keratinization occurring more peripherally.

MR. CILLIERS: That is so.

PROF. SIMSON: The time intervals, as far as I recall, were not in discussion.

MR. CILLIERS: Well, I have a recollection that the witness dealt with the time intervals but if you didn't and if you can, could you tell the Court if and if so how Robertson

/ elucidated ...

elucidated the question of time intervals and the apparent difference between the body of his article and the periods which he chooses to give at the end of the article? --- What I gathered from Dr. Robertson was the following, that during the 4 to 8 day period which was mentioned in his summary a certain group of changes took place in the wounded area. Certain changes tended to appear early and were followed by other changes which indicated that it was nearer the eighth day. But there was a variance in this period of 4 to 8 days that sometimes, take for instance the keratinization, appeared slightly earlier or appeared slightly later. But on the whole this group of changes occurred between the 4th and the 8th day. So that when he says in the body of the article that on the 5th day or after the 4th or 5th day keratin begins to develop, that is so taking into consideration the normal variance with different wounds. But the period 4 to 8 days only is used to facilitate the grouping of wounds into certain stages.

PROF. SIMSON: I asked this question of Dr. Schepers, Prof. Koch, where does this 4 to 8 day period occur in this paper, at which point does he mention ... --- No, in the summary he uses the 4th day to 8th day.... (speaking together)

... in the summary because the summary appears ... --- And towards the end where he has his classification.

That is not the summary. --- What I meant was this, this, a different period.

Could you read the two paragraphs before that. --- Before the final periods. "The confidence with which an opinion could be given in Court about the age of an abrasion is another question. Opinions of witnesses will always vary with their experience of the particular problem and the other variables which exist.

" We ...

"We can only offer the finding that it has been possible for us to group the abrasions correctly in this series (when examined 'blind') and other series, into the following age groups in the vast majority of cases" and then he goes on to give his groups.

That is not what we are trying to do now, we are trying date a lesion blind where we have no knowledge of when that, no specific knowledge of when that lesion was caused?
--- That is correct.

And this is what he was doing in the article? ---
That is correct.

And when he did it this way he was only able to .. we can only offer the finding that it has been possible for us to group the abrasions correctly in this series when examined blindly into the following age groups. Now the last four words are a vast majority of cases. In other words, not even all of them? --- That is correct, I accept that.

MR. CILLIERS: I want to, if you can, your elucidations from Dr. Robertson helped and I want you to just deal with this point, Prof. Koch. On page 22 about the fifth line, the fourth line, the author says "In small abrasions, complete epithelial covering of the abrasion has occurred by day 4 or 5" and then says "thereafter", that is after the 4th or 5th day, the covering epithelium, at first 1 - 2 cells thick, becomes progressively thicker and develops a keratinized surface layer". Now do you know, you have already told the Court that your conversation with Dr. Robertson, from that it transpired that the keratin, starting from the edges, occurs on the 5th day and thereafter, that is what he told you. But now ... what the learned Assessor has asked you, do you know at what.. having chosen a period to group 4 to 8, do you know what sign

/ would ...

would be the first sign in that group? In other words, the 4th day, what sign on the lesion he would require before bringing it into that area of 4th to 8th day? --- According to the passage you read out now in small abrasions this would be about the 4th or the 5th day with complete epithelial covering.

Would that be the sign? --- That is what he says in this paper.

Dr. Koch, if one has a deep bruise, for instance on the ribs, anybody, would the area of bruising form one uninterrupted area or could bruises arise in spots, as it were? --- Well, it depends on the instrument that is being used or the object. A bruise is caused by direct violence causing rupture of deep-lying capillaries and normally if I jab a finger with some force into a person's ribs one would expect a single bruise so that if there are more bruises one expects that either more incidents of force were applied or that an object with several projections was used to cause the separate bruises. I don't think a single rounded object if I may call it that, would cause multiple bruises with one application.

Do you say that the area shown up by a bruise would more or less represent the area of the force that struck that part of the body? --- More or less, yes.

If one had say, say you had a circular area, a diameter of 5 centimeters, as a bruise over a period of time would all the areas or shall I first ask you this way, would a bruise with a period of time lose its discolouration and the skin return to normal? --- Yes, that is to be expected.

Would the whole area of a bruise lose its discolouration evenly? --- No, not necessarily. I think this

/ depends ...

depends on several factors, especially if it is a fairly large bruise. If it is a small bruise one expects ^{it} to disappear gradually from the periphery inwards and just get vaguer and vaguer but in a bigger bruise one may get a variable discolouration as the bruise disappears.

And could you then at a certain stage find that has a larger area of bruising now has a spotty appearance? --- That is possible.

NO FURTHER QUESTIONS.

S.A. HERVERHOOR: Prof. Koch, u is, hoelank is u al senior Staatspatoloog? --- Ek dink dit is hierso van 1969 af wat ek Senior Staatspatoloog is.

En u het baie ondervinding van beserings, het u gesien, kneusings en wonde, is dit korrek? --- Dit is korrek, dit is my daaglikse werk om na wonde te kyk.

Is dit so, Professor, dat party persone baie maklik, baie makliker as ander 'n kneusing of 'n blou kol opdoen as ander? --- Dit is 'n erkende feit.

U het nie die oorledene se liggaam self gesien nie? --- Nee, ek het nie.

As u na die fotos kyk soos hulle hier voor die Hof is, 1 tot 7, kan u die moontlikheid uitsluit dat die oorledene een van die persone was wat maklik so 'n kneusing kon opdoen? --- Ek kan dit nie uitsluit nie.

Dit is moontlik? --- Dit is moontlik.

GEEN VERDERE VRAE NIE.

ABDUL AHMED ESSOP s.s.

S.P. EXAMINES: Mr. Essop, you made a statement in connection with this Inquest to an attorney, is that correct? --- That is correct.

I will now read out your affidavit to you,

Statement HH, it reads as follows. (S.P. READS STATEMENT HH).

Is this correct? --- That is correct.

You signed it? --- That is correct.

And do you adhere to this statement? --- Yes.

It was sworn to before an attorney of Transvaal on the 23rd day of May, 1972, the deponent having acknowledged that he knows and understands the contents of this affidavit.

NO FURTHER QUESTIONS.

MR. CILLIERS: I don't see how examination or cross-examination could take the matter any further.

MR. BIZOS: NO FURTHER QUESTIONS.

COURT: I would just like to have a little further information and that is what time, you say at big break you walked out of the school together and you parted, what time would that be? --- 12 o'clock.

It was midday? --- Yes.

Was that the last time you saw him? --- No, I saw him after school as well.

What time did he leave? --- That was about 2.20.

Yes, thank you.

S.P. Your Worship, and then there is a statement which Dr. Kemp made and I think Mr. Maisels and Mr. Cilliers agreed earlier on that this statement can be read out and handed in without calling Dr. Kemp. Later on there was other suggestions but we, I think it will be convenient now to read out the statement and hand it in. That will be Statement II. Ek sal die verklaring wat in Afrikaans is vervolgens uitlees. (S.A. LEES VERKLARING II).

S.A. Edelagbare, ek kan nie verder kommentaar lewer nie, ek wil die Hof se aandag net daarop vestig dat ek dink dit was eergister het mnr. Bizos en mnr. Maisels ...

COURT: Mr. Maisels, in regard to this witness of the Rand Daily Mail...

MR. BIZOS: Your Worship, we have certain information in regard to that. The person who spoke to Major General Buys is Mr. Dennis Beckett and not Mr. Engelbrecht. At the moment he is at the Southern Methodist University, Lawyers Inn, Dallas, Texas. He was spoken to on the telephone by Mr. Ken Campbell, the Night News Editor of the Rand Daily Mail last night and he confirmed ...

MR. CILLIERS OBJECTS.

COURT: That certainly wouldn't be evidence. The report is in, I suggest that we leave it at that and accept it for what it is worth.

MR. BIZOS: Yes, I was going to suggest, your Worship, that every attempt will be made and apparently it isn't so difficult, he will have to go to some person to execute an affidavit in Dallas and we hope to be able to hand in the affidavit within a few days. This is the best that we can do in the circumstances.

COURT: Well, as I intimated to Mr. Maisels I want to conclude this matter not later than Thursday, coming Thursday, it is today a week. If this is the end of the evidence I will go all out and work on this matter so that I will be in a position to give judgment, my verdict by Wednesday next week.

MR. BIZOS: We will try, sir, to hve that affidavit in before that date.

COURT: If that affidavit is not here you will just leave it at, as it is?

/ MR. BIZOS ...

1,071.

MR. BIZOS: Then we can only say that we tried our best.

COURT: And we will leave it at that and if there is an affidavit then I would like it to be handed in to Mr. Beukes as soon as possible and he can hand it to me. But this must definitely happen before ...

MR. CILLIERS: Your Worship, may I make certain submissions in this regard. We too are an interested party, the Police are represented in this matter and it does cost money and has taken a lot of time to maintain this representation. The sort of evidence which my learned friends now seek to place before your Worship is now third-hand evidence. This is now evidence of what a reporter will under affidavit, if he will, say of what General Buys said of what Rodriques said.

COURT: The Court will have to deal with it in that light.

MR. CILLIERS: I just want to make some submissions. That is the sort of, that is the distance at which this sort of evidence is removed from the direct evidence which your Worship has heard and the question of weight will no doubt be a matter for your Worship to consider. But it doesn't end there. If this sort of evidence is now further produced and these proceedings are not concluded, I consider that it may well be necessary to obtain at least also an affidavit from General Buys, who, although he may not be well enough and this we have been advised, to submit himself to the strain of viva voce evidence in Court, I don't know but it may well be, he may be well enough and I should think that he may be to give evidence on affidavit dealing with that affidavit. So it will not be simply a question, as far as we are concerned, of another affidavit being forwarded to your Worship. We would have to consider this affidavit and we would then make representations to your Worship to produce further evidence on our part. In

/ all ...

all these circumstances I would suggest that your Worship conclude the evidence.

MR. BIZOS: There are just one or two other matters, your Worship. Your Worship will recall that there was mention of the Jacobsen case during the course of the evidence and we would at this stage like to hand in a certified copy of the indictment. We will make certain submissions in regard to it in view of the contents of the affidavit.

S.P. This will be Exhibit QQ.

MR. BIZOS: It is a certified copy of the indictment, I'm sorry that my learned friend for the Police complains.. that he has not seen it and no copy has been furnished. Arrangements will be made, sir, to furnish my learned friend with a copy. I'm sorry.

MR. CILLIERS: Your Worship, in regard to that affidavit, it is true I have not seen it...

MR. MAISELS ADDRESSES COURT (NOT IN MICROPHONE)

COURT: I can see no objection to that ..

MR. CILLIERS: Your Worship, I'm not objecting, I just wish to place on record that on behalf of the Police I reserve the right or I place on record that I will ask your Worship, if I deem it necessary, to produce further evidence, on affidavit or viva voce, if necessary, from the Attorney-General's office to deal with that indictment if we consider it necessary.

MR. BIZOS: And then, what I hope, a final matter and that is, sir, that our information is that the investigating officers in relation to this Inquest have been to a number of persons to make inquiries as to whether or not they had any knowledge of any arguments, fights or falls that the deceased may have been involved in. Now your Worship, if our learned friend for the police is prepared to admit that the investigating officers

in this Inquest have made such inquiries it will not be necessary to ask your Worship to recall the investigating officers in order to put this to them. It is a matter, sir, of record, if in fact the investigating officers, as is our information, have been around to relatives and friends and associates of the deceased to ask whether to their knowledge he had been involved in any physical exercise or any wrestling incidents. If that be the case then a simple admission will suffice for our purposes.

MR. CILLIERS: Your Worship, I do not know what method is being adopted here of placing facts before your Worship otherwise than on oath and saying if they are admitted otherwise I will call witness. If my learned friend wanted to approach me and establish this and if not I will produce it in a proper way but he has an indirect way or making allegations from the bar before your Worship and calling for their admission. I'm not prepared to deal with them on that basis.

COURT: I would suggest in the circumstances, I do not know which investigating officers you are referring to, Mr. Bizos, which investigating officers are you referring to? One or more?

MR. BIZOS: Sir, in the absence of Major General Buys, the senior man is Major Fick whom I have seen in the general vicinity.

COURT: I would suggest that as far as that is concerned, that Major Fick just gives us an affidavit to the effect.. is Major Fick here?

S.A. He can be contacted.

COURT: I would suggest that all that Major Fick must do, as far as I'm concerned, and you seem to be satisfied with that ...

/ MR. BIZOS ...

MR. BIZOS: Well, this is the information that I have.

COURT: That that be put on record the aspect of whether the man was involved in some fight or whatever it may be was investigated and no evidence could be obtained.

MR. BIZOS: That is so, that is all, sir. It can be done either by a short affidavit or if my learned friend speaks to the investigating officer and he is assured in a manner in which we have been assured by the persons from whom inquiries have been made, that this is a fact, then we can dispose of the matter.

MR. CILLIERS: To the best of my knowledge, Major Fick has been involved in other matters and I don't know if he has any knowledge of this.

COURT: I'm not going to call him as a witness, all I want to complete the record as far as I'm concerned, is just to get a short affidavit from him dealing with just that aspect.

MR. CILLIERS: I just want to make it clear does your Worship require Major Fick to go round the Police Force and make investigations whether anybody had done it or only on his personal knowledge?

COURT: You are misunderstanding me, all I expect of Major Fick is to tell us that this aspect was investigated or not, one of the two.

MR. CILLIERS: As far as he knows or ...

COURT: As far as his knowledge goes as the investigating officer.

MR. CILLIERS: That is all I wanted to know.

COURT: Then I accept that this concludes now the evidence, subject to the possibility of an affidavit to be introduced from overseas.

/ MR. MAISELS ...

MR. MAISELS: Well, we are going to try to get the affidavit in time .. my learned friend has reserved certain rights, by all means. But as far as we are concerned, sir, we have no other evidence.

COURT: Then as I have already indicated if nothing unforeseen happens then I hope by next Thursday to give my verdict and I hope to, in the circumstances, to deal fairly fully..

MR. MAISELS: Sir, the question as to whether your Worship will require assistance in the form of an address has crossed my mind. I don't know what your Worship's attitude is. The Act itself, as far as I recall makes no provision, it is just a question of whether your Worship would think you require assistance or not. If not then of course that is that. If so, that is what we are here for.

COURT: I think in the circumstances, Mr. Maisels, I have had the benefit of complete cross-examination on all the different aspects and particularly as far as the medical evidence is concerned. There has been a complete discussion and, but if you wish to, on the medical evidence perhaps to address me shortly, I mean I will ...

MR. MAISELS: I would like to address you on certain broad aspects of the matter.

COURT: Are you going to go into great detail?

MR. MAISELS: No, not at all, sir.

COURT: I feel I would appreciate it myself before I have got to adjudicate on these facts and I would like in the circumstances, particularly Mr. Maisels, to get quite an objective setting out of the matter. I must say that I am not casting any reflections, I hope you understand me perfectly clearly but we have had in this case rather a peculiar situation. Although the witnesses were mine, you were / certainly ...

certainly, you were happy in the circumstances to take up a certain attitude, I don't blame you for that and we have had the same from Mr. Cilliers, he was almost like presenting a case, a case he defended... I feel that I really would appreciate in this case from your side and also from Mr. Cilliers' side, is a perfectly objective setting out of your views, that would certainly help me considerably. It is not a question of trying to persuade me one way or the other but just an objective setting out of the matter.

MR. MAISELS: Well, sir, I would simply do my best to make my remarks to you as objective as I can but after all your Worship will ...

COURT: I'm not going to dictate to you, I'm not going to ask you .. I'm just telling you what I personally would really appreciate. After all you are senior counsel, you have been on the bench yourself in Rhodesia and you are still doing bench work. Now you can appreciate my position now, how difficult it is. Therefore I'm asking you, I'm appealing to you both to give me quite an objective setting out of the case.

MR. MAISELS: I will do my best.

COURT: And the same applies to Mr. Cilliers.

COURT ADJOURNS TO 2 P.M.

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