

c.c.

IN THE SUPREME COURT OF SOUTH AFRICA
(TRANSVAAL PROVINCIAL DIVISION)

CASE NO: 18/75/254

DATE: 12 APRIL 1976

THE STATE

VS

S. COOPER AND EIGHT OTHERS

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LUBBE RECORDINGS (PRETORIA)

THE COURT RESUMES ON 12th APRIL, 1976.

MR SOGGOT: My Lord, I have indicated to Your Lordship on a previous occasion that one of the witnesses whom I intended to call was ill. Let me immediately say I do not propose to ask for any further delays, but I think I should explain to Your Lordship that that witness is a witness from King William's Town who is subject to a banning notice and for reasons which are difficult to understand, the Magistrate before allowing him to come here, would require the issue of a fresh subpoena and that could not be (10) managed in time. So that witness is still not available, but I call accused No. 1.

SATHASIVAN COOPER: confirms:

EXAMINATION BY MR SOGGOT: You are accused No. 1 in this case. -- That is correct.

Would you tell His Lordship very briefly about your personal background? You were born in 1950. Is that right? -- That is correct. On the 11th June.

And you matriculated at Sastry College in? -- 1967.

After Sastry you went to the University College (20) of Salisbury Island. Is that right? -- That is correct.

And you enrolled for a degree in? -- Arts.

And then what happened in 1969? -- Well, in 1969 I was suspended. That was in the middle of the year. That was owing to an alleged act by the authorities that I had infringed the examination rules, plainly that I had been cheating. I later found out that this was purely a manoeuvre on the part of the authorities to get rid of me for the ensuing year.

Well, whatever it is, you were suspended from (30) university activities and that brought your university activities/...

activities to an end. -- That is correct.

Now, you are a married man. You were married in 1970? -- 1972 in January.

And you were the recipient of what you people call a banning order, but a restriction notice in March, 1973. -- That is correct.

Now, would you tell His Lordship briefly, after leaving the campus, what work did you take up? -- Well, I was involved in insurance work, doing this work on a free lance basis. (10)

And when did you leave this work? -- I left it for a short period between October, 1973, and the middle of 1974.

And what work did you do in that period? -- In that period I was a salesman for a manufacturing concern.

The name of the firm please? -- Soca(?) Wine and Liquor.

And then did you resume insurance work thereafter? -- That is correct.

And we have heard evidence I think that you had some sort of record library lending business? -- That is (20) true, yes.

When was that? -- I was involved in a business, it was a record lending library called Revelation. This was between the period November, 1971, and about the end of 1973.

Now I think perhaps we can turn to your political activities. When did you first become interested in politics? -- Well, it is very difficult to say. When you are a student at high school and at university, one comes into contact with the broader political life in the (30) country and being a Black person one has to take heed of this/...

this type of situation and I suppose my political interest began at high school.

Now, one of the charges against you originally was that you had written the poem "Dedication". -- That is correct.

Now I wonder, have you got that poem in front of you? -- No, I haven't.

Can you tell His Lordship the circumstances associated with your writing of this poem? -- Well, the main idea came to me on the 21st March, 1971.

What were the circumstances of those ideas? -- (10)
Well, this was the 11th anniversary of Sharpeville. The ideas came to me that day. I had gone that afternoon to a Sharpeville commemoration service held at the University of Natal, Black Section, the Allan Taylor Residence, that afternoon, and up to then I had been very interested in drama. As I was interested in drama subsequently. And these were thoughts that came to me on this occasion.

Now, what did you do with these thoughts? -- Well, I put them down on paper and the final result is what you see in Annexure 1. (20)

And that was eventually I think published in a SASO newsletter. Is that right? Amongst other things. -- Yes.

And recited by you. When was it recited by you? -- The following year at a Sharpeville commemoration meeting held at the same venue, that is the Allan Taylor Residence, University of Natal. I think it was the 19th March, 1972.

I show you a pamphlet, marked Sharpeville Commemoration Service.

BY THE COURT: Is there a hall at this Allan Taylor Residence? -- There is a hall. I think it is a (30)
students' hall at the Allan Taylor Residence. But on this occasion/...

occasion, the 19th March, 1972 it was an open air meeting.

THE COURT: Are you handing this in as an exhibit?

MR. SOGGOT: Yes, M'Lord.

THE COURT: That will be EXHIBIT 00.

MR. SOGGOT: Tell us about this leaflet. Where did you see it for the first time? --- Well, these were distributed some time before the meeting on that Sunday, 19th March, 1972 and I recall that I received one of these. I think the original there is mine.

I wonder, the microphones are not very good. Would you speak up please? And you cannot be heard at the back. As far (10) as you understood it, who organised this meeting? --- The SRC at the University of Natal, Black Section.

Now, if we may get on to "Dedication," would you briefly, line for line, explain what you intended to convey by that poem? --- Well, I think line for line would be a rather involved task.

THE COURT: Well, sentence for sentence I think is better.

--- That would be more appropriate.

MR. SOGGOT: In other words, an appraisal of your intention.

--- Well, let us take the first section:

"Eleven years ago they fell under the ...(?)... (20) onslaught of the stens and saracens."

It is purely stating a fact that happened that day eleven years previously.

What happened on that day? What are you referring to?

--- I am referring to the Sharpeville incident where people were massacred when they attempted to have a peaceful demonstration against what they considered and what I still consider the monstrous pass laws.

MR. REES: I just want to know, does this witness now state this as a fact that he knows this happened, or what (30)

his/...

his source of information is. He says when people protested against monstrous pass laws. Was he there? How does he know? I do not know whether something will turn on it as his source of information. Is he giving hearsay evidence or what is .. (inaudible)

MR SOGGOT: I think he must have been fairly juvenile at the occasion. My Learned Friend can investigate his sources. This is explaining the witness's understanding of an event.

BY THE COURT: Well then he must indicate. (10)

MR SOGGOT: That is so, My Lord. You were not at Sharpeville, were you? -- I was not at Sharpeville. I was 9 years old, I think, when the actual incident occurred.

Carry on. -- Witness reads -

"We remember irrepressible dignity, undying courage, a fervent belief in themselves against an army of oppression and violence."

It is talking of those who died on that day in Sharpeville in the context of heroes in our Black life. (20)

Irrepressible dignity expresses what I considered to be the attitude of the people who protested on that occasion. Their undying courage, a fervent belief in themselves. You must remember that they protested against the pass laws, they had this courage in order to continue with this demonstration. A fervent belief in themselves, which comes back to the Black consciousness approach. Black consciousness is an attitude of mind and a re-examination of people in the context of their present situation, reasserting themselves with dignity. Against an army (30) of oppression and violence, this is a metaphor talking of/...

of what the people faced at the actual incident.

"Rooted in an insane fear."

Well, it is describing the phalanx that the army that faced the people on this particular occasion. Insane fear, if you utilise the colloquialism, the "swart gevaar" bogey. I looked at it in this context. Insane fear, I consider that White people in this country have made a mistake by believing in this apartheid which they uphold because of the fear they hold Black people in. "Bestial instinct" well, this goes back to survival of the fittest type of thing. Survival in blood, (10) it is an image utilised in the context of insane fear and bestial instinct.

"Ravishing them in travail, killing innocence in the name of justice."

Well, ravishing them in travail is a symbol. It is an image of the body of people on this occasion who stood up for what they believed to be right and correct. Travail in an anguish of expen- tation; in their normal everyday life Black people come across the heinous pass laws and "travail" conveys this image which transports it in the context of work, labour, daily experience (20) ...(?)... in fact in everyday Black life. "Killing innocence" I believe that the people who were killed on that occasion were killed innocently in the name of justice. Well, it was the official Police force that was there on that occasion. The up- holders of law and order.

Now, as far as "ravishing" and "travail" is concerned, I want you to indicate to His Lordship all the meanings which are possible there and express.....(intervention) --- "Ravish" it can have many meanings. "Ravish" can mean rape, it can mean despoil. I used it in the sense of destroying them, killing them in the (30) context/...

context of innocence, killing innocence. In travail, travail we know signifies if it is used as a verb, it means to weary. If it is used as a noun, it would mean labour pains, anguish of expectation, labour, work.

Was there any intention on your part to convey the idea that his is a.....(intervention)

MR. REES: Perhaps the witness can say himself what his intention was. Then after he said so, my Learned Friend can, but if it is being laid into his mouth now, he must answer no and when the question, as soon as it is put, the answer will be no. (10)

MR. SOGGOT: I want to put the State's contention and I think it is my duty. If the suggestion is put to you that this is an intention to convey the idea that this is a raping of a woman, or the deeds of people who are capable of raping a woman in travail, meaning in labour pains, does that figure at all?

--- No, I think that would be looking at it very, very superficially.

Yes, carry on? --- "Killing innocence in the name of justice" I have just gone through that. "The Black arm bands don't forget." Well, on this day when we do commemorate Sharpeville, we normally wear black arm bands and I was making just a reference (20) to that. "The fires continue to be lit" that is a figure of speech. "We will rededicate ourselves with the same fervour, the same irrepressible dignity, the same undying courage....." (intervention)

What does this lighting of fires mean, imply or symbolise?
--- A re-kindling of this dedication incident. This is in the context of what I was trying to convey.

Yes? --- In commemoration the fires continue to be lit in commemoration. We will not forget, we will not forget our heroes who fell on this occasion. This part of us forever lost, forever gained. Well, a figure of speech. Forever lost, forever (30)

gained/...

gained. You can probably look at Paradise Lost, that type of thing. They're lost in the sense that we no more have them amongst us, the physical reality, but spiritually we have gained from their experience and we will represent what they stood for, in that context. We will not forget then, they are our heroes.

Would you tell us about the mood of the meeting? And the response to the recital of the poem? --- Well, it is difficult to talk about the whole mood of the meeting. It happened, oh, about four years ago, but what I remember and from listening to (10) the tapes that were handed in by the State as an exhibit, I would say the reception of this poem was normal. In fact, it was below normal, because if you consider the applause received for other pieces of poetry that we read there, I would say that this was below normal. It was placid. In fact I did recite another work at this commemoration service, it was not mine, it was a French African writer's work.

Who was that? --- I am not certain. It may have been Bernal Dadi, or Francis Babay.

Have you written other poems? --- Yes, I do not know whether (20) one can call these poems. They are thoughts put down. I would not consider that it is poetry per sé. Budding poet, well, incipient poet I think I am.

Well, let us say literary efforts of this kind have you attempted them before this date? --- Yes.

And since then? --- Since then a few.

Well, we will come to some other documents. Now, (27)

on/...

on the question of Sharpeville, before we leave this, can you - you have already given us a characterisation of how you consider that day. Would you briefly indicate to His Lordship what the sources of your information are?

Because this also links up with another document which we will deal with. -- Well, I read "Days of Crises" by Muriel Horrall, I think it is a Race Relations publication. This deals with the whole incident of Sharpeville, Llanga, etc. I read extracts which were quoted in various sources of the actual outcome of the inquest or commission of (10) enquiry, I am not too certain what it was, I think it was a commission of enquiry, as reported in the 1960/61 and I think the 1962/63 versions of the Survey of Race Relations.

You mean issues of the Survey of Race Relations. -- That is right.

Yes. Very well. Now, would you now pass on to the chapter of BPC in your life? Would you tell us about your first contact with the organisation or members of that organisation? -- Well, in December, 1971, it was I think the first week of the month, I was a member of the (20) NIC at this time, an executive member of that body and secretary of the Durban Central Branch. We had a symposium on Black consciousness. At the end of the symposium I remember people leaving for a conference, a National Organisations conference to be held at the Donaldson Orlando Community Centre in Soweto. Subsequent to that I was invited to attend an ad hoc committee meeting which was formed to launch a Black people's convention in six months. I attended this first meeting in January, 1972. (30)

Yes, now if I may ask you to pause there, prior to then/...

then you had had contact with a gentleman called Harry Singh. --- Yes.

Would you just tell us about that contact with Harry Singh? What was his role in NIC, Natal Indian Congress? --- Well, before I come to the role of Harry Singh in the NIC, I first met him in 1969.

MR. REES: M'Lord, is this witness giving evidence from a document? I see he has a document open in front of him.

--- This is "Dedication" Annexure 1. This is "Black Drama Anthology" closed, and this is the exhibit "Sharpeville Commemoration Service" in English and Zulu. (10)

The witness has another document in front of him.

--- This document is EXHIBIT C, the telephone conversation.

BY THE COURT: He can refer to notes that he made at the time.

MR. SOGGOT: Yes, but I would explicitly indicate to Your Lordship that he is relying on that. Carry on. You were talking about your first contact with Harry Singh. --- This was in 1969. Before the period 2nd October - I may be wrong on the date - 2nd October when some of us were involved in a choric verse on Mahatma Gandhi. 1969 one will remember was the 100th anniversary of the birth of the Mahatma and some of us, accused No. 9, myself and a few other members of a theatre group called Avon Theatre Company, were involved in the preparation of a choric verse. Now this choric verse was written by Shubash Maharaj. Shubash Maharaj was the president of the Avon Theatre Company and he was Harry Singh's cousin. Harry Singh was brought along to this rehearsal of Mahatma Gandhi. I remember him from then. My next contact with Harry Singh.....(intervention) (20) (30)

May/...

May I ask you to pause in that context? I want to show you what appears to be a choric verse. Do you identify that document? -- Yes, this is the choric verse that I have been referring to, dedicated to Mahatma Gandhi.

Now did Harry Singh have access to that? -- Yes, as I said he was involved in the preparation of this production.

Now, if you look on the second page, there is a reference to "poor native man." -- Yes.

"Sitting in the sun". -- That is correct. If Your Lordship will remember, Harry Singh referred to a (10) document, BPC.L2 I think it was.

That is right. -- Which he claimed he had picked up from the seat in the YMCA, Beatrice Street.

At the memorial service. -- That is correct. Now, if I may be allowed to compare these two documents.

Well, I think the Court can draw its own conclusions as to whether there has been plagiarism or not and by whom.

BY THE COURT: Just indicate what is the point you are trying to make? What are you trying to say? -- Well, I am trying to say that Harry Singh plagiarised this (20) particular verse from the choric verse and called it "Hey, Black Man". Here it begins "poor native man", he substituted "Black" for "native" or vice versa and if I can have the BPC.L.2

It is page 2 of EXHIBIT PP, the latter half. Now you say he plagiarised it from this. -- I should imagine so, yes. One will find that .. (intervenes)

MR REES: It is not clear now what this witness means. He thinks Harry Singh did so, is he saying Harry Singh did so or is he imagining it? Because if we have got opinion (30) evidence then he must tell the Court that it is his opinion and/...

and what he based it on, but he cannot come and tell the Court that Harry Singh plagiarised it and then he says he thinks it is.

MR. SOGGOT: That is perfectly so and that is why I did not want the witness to deal with that in so many terms.

You do not know whether Harry Singh in fact wrote any documents or poems inspired by that? --- No.

BY THE COURT: But you say this poem obviously comes from this? --- That is correct.

Would this be EXHIBIT PP, that is the choric verse? (10)

.....(Intervention)

MR. SOGGOT: Just for clarity in regard to the chronology, when do you say Harry Singh had access to this? --- I said the choric verse was before October, 1969.

Would you carry on please? You had dealt with this choric verse and Shubash Maharaj. --- I next met Harry Singh at the Sharpeville commemoration meeting in 1971, that is the 21st March, 1971 at the UNB. He was present at the meeting. He spoke from the floor.

What was his post in NIC? --- Well, the NIC comes (20) towards the end of 1971. He was vice-president of the Durban Central branch. He was an alternate delegate to the inaugural conference to form the NIC held in October, 1971 at Phoenix Settlement.

Were you there as well? --- I was a delegate.

You were a delegate. --- As representing the Durban Central Branch.

Yes? --- Harry Singh at the first conference of NIC, that is around Easter 1972, at the Gandhi Library, Durban, represented the Durban Central branch. I was also a delegate (30) there.

And/...

And what was his participation in NIC meetings, if any? -- He spoke often at meetings, he was an active person at NIC affairs, he showed a lot of keenness in the activities of the NIC. You must remember that at this time the Durban Central branch was pushing a Black consciousness line in the whole NIC establishment and Harry Singh was in support of this.

Can you tell us anything else of your contact. -- I met him before the actual NIC formation, I met him whilst he was preparing pamphlets asking for a boycott of (10) the public celebrations. This would have been April or May of 1971, and I assisted him in the roneoing of one particular pamphlet.

Do you know anything about a postal order sent to him? -- Well, he told me about this some time later. I cannot place exactly the chronology of this particular event, but it was in the context of receiving a postal order from either Dr Dadoo or Paul Joseph in London. I think this would have been in the context of receiving money to buy materials for publishing of this anti-Republic (20) celebration pamphlet.

And where did you get the information of Dr Dadoo or Paul Joseph from? -- From Harry Singh. He had been to London - he had been overseas, I do not know when but it was some time before that and he had met these persons there.

And who was Dr Dadoo? You did not know him?

MR REES: What would be the relevance of this evidence to this case? I think my Learned Friend should indicate. It does not seem to cover any matter that is related (30) to the charge at all.

MR/...

MR SOGGOT: It may have relevance to credibility. There were several issues which were canvassed. I share my Learned Friend's view that this is hardly of great moment, but what I propose to do is lead the witness through these episodes with the maximum of speed. If my Learned Friend wants to take it up, that he is entitled to do, but I think bearing in mind that this gave rise to cross-examination.. (intervenes)

BY THE COURT: These things were put to Singh in cross-examination. (10)

MR SOGGOT: That is right. I think it is proper to touch on it. Then my Learned Friend can take the matter further if he so wishes. On the question of .. (intervenes)

MR REES: I must point out that it is a rule of evidence that in respect of matters that are not directly in issue, you are bound by the witness's answer and this whether or not he was a friend of Dadoo or he said he was a friend of Dadoo or had received anything from Dadoo and who and what Dadoo is - Dadoo is not involved in this case. The Defence are bound by that answer. (20)

MR SOGGOT: The cross-examination will not purely for this and merely for credibility, it will go to show Harry Singh's political experience, his contact with other persons, including members of the Communist Party and his political maturity is of relevance bearing in mind he persistently suggested that he was getting inspiration from this accused who is much younger and in our contention not as experienced as he.

BY THE COURT: In the meantime I think you can continue, because it may be relevant as far as credibility is concerned. (30)

MR SOGGOT: That is so. -- So this particular circumstance, that is the postal order, he told me that this was intercepted. I do not know how he got that information, but he told me it had been intercepted and he had stopped receiving postal orders from these persons. Now Harry Singh was in NIC, he had been an old member of the Youth Congress even before the resuscitation attempt. I think to put His Lordship in the picture, the NIC .. (intervenes)

The Natal Congress, Youth Congress? -- The Natal Indian Congress, Youth Congress. (10)

Now we are clear. -- This was before the period of the sixties. In 1971 there were attempts made to resuscitate the Natal Indian Congress and .. (intervenes)

MR REES: I must object. How can this witness say that Harry Singh had been an old member if he had not had contact with him before that. It is hearsay evidence.

MR SOGGOT: Would you tell us your source of information please? -- I got to know Harry Singh's background in the course of my association with him from that period onwards.

From whom did you get to know it? -- From him. (20)
He told me he was a member of the Youth Congress. He told me his stepfather, Debbie Singh, was a leading light in the NIC, I think he had the portfolio of treasurer in NIC. His mother, I had seen pictures of his mother being at NIC meetings. Well, they were congress meetings in those days, not specifically restricted to NIC and Debbie Singh, he cherished the memory of this person, he showed me Debbie Singh's photograph at the Treason Trial, he was a treason trialist and he spoke to me subsequently of how his father reacted after his detention experiences (30)
connected with the Treason Trial episode.

Just/...

Just one word. The NIC, what role did it play in the Indian community in the period that you are referring to? Was it a big organisation or small? Just in one word.

--- Well, I would say it was a large organisation. There were various branches throughout Natal and congress has invited quite a bit of attention from various sections of the community, specifically the Indian community.

Was there any discussion about his being an agent of the Security Branch? --- This arose - I am not too certain whether it was after or before, but I should imagine it was around the period of May, 1972. After or before I refer to in reference to the Fatimah Meer bombing incident - Now, Harry Singh had been what I would call an activist in local politics in Durban. He had been in the NIC. In May, 1972 there were student stikes at Durban Westville University, at the M.L. Suttan Technical College and Training College in Springfield and Harry Singh was active specially in the Training College area.

(10)

Doing what? --- Well, he had a few friends in the SRC and a few popular students were his associates. Now, he had come up to a few of them and talked to them in the context of forming some sort of an underground cell at the training college.

(20)

MR. REES: Is this again hearsay evidence? Surely this man was not there? Then he must tell the Court this and this person told him this, etc., but he is giving here, he is making statements of fact as if it is fact of which he knows and it appears to me it is not fact of which he knows. But he must just clarify that, and my Learned Friend should place it before the Court in that light.

(30)

MR. SOGGOT: This is obviously in the context. Let us hear again/...

again where did you get that information? -- Well, I first got it from a member of the SRC, I forget his specific ... (intervenes)

Well, that is hearsay. What other sources did you get it from? -- Well, this is the occasion that I had to approach Harry Singh on his being an informer because he was an active person and he spoke to us openly but here now was a person who had come to me and said look, this fellow, Harry Singh, what do you know about him?

MR REES: Again I object to this. He can say what (10) he said to Harry Singh and what Harry Singh's reply was, but not somebody said this and somebody said that. It is not permissible.

MR SOGGOT: My Learned Friend I think is misunderstanding hearsay evidence. This is not being led in order to prove the contents thereof, but to show how certain information having been passed on, then led to a confrontation with Harry Singh. Is that what you are talking about? -- It is in that context, yes.

MR REES: Then I still object. If he has a person (20) who passed on information, he must bring that person to come and give that evidence, otherwise the best he can do is to say I said to Harry Singh a, b, c, d, e and Harry Singh replied x, y, z, but he is not entitled to say whoever it is, some person, Mr Maharaj or whoever it was said this, that and the other thing. It is quite clear, he says he is now claiming he does not know who his informant was.

BY THE COURT: Yes, but he is only giving a reason why it became necessary for him to challenge or attack Harry (30) Singh.

MR REES: But he can tell us what the attack was.

BY THE COURT: Well, he must say why he attacked him otherwise it is evidential value of that, not the testimonial value that he is relying on.

MR SOGGOT: Please carry on. -- So I broached Harry Singh on this matter. I said that I found his behaviour, if it was correct as reported to me, rather suspicious. I taxed him on this matter. He denied ever having spoken to persons in training college with the idea of forming some sort of a secret cell. I let the matter rest at (10) that. Although later in 1972 the matter cropped up again when I had occasion to tax Harry Singh on certain rumours that I had heard concerning this Republic festival boycott pamphlet. I had heard that - and he confirmed it - that he was in constant touch with Security Branch personnel especially at that time it was Sergeant Haiger or Lieutenant Haiger who had confiscated the roneo machine from him and there was suspicion surrounding the circumstances of Harry Singh ..(inaudible) to have a passport and being seen with Security Branch men and being (20) active in politics. I confronted him again towards the end of .. (intervenues)

May I interrupt you. You say that he confirmed being in touch with the Security Branch. -- That is correct.

Now I think you had better describe that a little bit more carefully so as not to give any wrong impression. How did he describe that being in touch? -- Well, he went back into his own personal history. He talked of knowing Security Branch people from the time of Debbie Singh. Then he spoke of his return from overseas and that (30) the Security Branch had been questioning him in connection with/...

with his overseas visit.

Is that the sort of thing he referred to? --- That is right.

I just wanted to get that clear. All right. And then you were going to go on to one further episode, I think, of suspicion. --- No, there were two.

As far as you yourself were concerned, I am taking now the whole history. Did you consider Harry Singh a safe, reliable member, or did you have any doubts? --- Well, I did have doubts between this period from May to about the end (10) of 1972, when these rumours were flying around. When I confronted him with these rumours and he denied all these rumours and well, he almost, he was quite emotional about this particular thing, feeling that these rumours and attacks on him were unwarranted. I did not pay much attention to Harry Singh or those rumours from about the end of 1972 till the beginning of 1973, when I again had some dealing with Harry Singh.

Now, you yourself referred to the petrol bomb incident. Can you as briefly as possible give us your version of what (20) happened? --- Well, around May, 1972 students at the University of Durban Westville were on strike. Now, a parent/student committee had been elected by the parents and by students of the university to place before the rector and the council of the university grievances that the students had. Now, amongst those parents on the committee was Mrs. Fatimah Meer. One evening Harry Singh came up to me and said „Look, I want to show people like Mrs. Meer a point." Now, it was in the context of him feeling that Mrs. Meer was soft-peddalling on the students under her. I asked him what he meant by this (30) and he said that he

would/...

would like to show them where to get off - like to show them a point. I said: look, I hope you haven't got anything dramatic in mind and he said well, I want to show them something. I said: look, you will only succeed in making people like Fatimah Meer martyrs if you go and do something drastic against them. Later on that evening he returned and he told me that he had been to the University of Durban Westville, there were lots of police, 'cops' as he called them and dogs, and he had to get away from the university but instead he attempted to burn down Mrs Fatimah (10) Meer's house. I was very angry about this. In fact I was too shocked about this particular incident. I let it - I dismissed Harry Singh. The following day Inveram Chetty who was a partner in my business 'Revelation' that is the record library, told me that Harry Singh .. (intervenes)

Well, he made a report to you. -- That is right.

Allright, I think we can pass on from there. As far as Harry Singh's version of the episode is concerned, what do you say? -- Well, he was quite brazen about having burned Mrs Fatimah Meer's house or attempting to have (20) burnt it.

BY THE COURT: Was there any case about it? -- The police were investigating. I do not know what came of it.

MR SOGGOT: Well, you do not know of any prosecution of anybody? -- No, I don't.

Now, is there anything of interest that you want to refer to in relation to Harry Singh before I pass on to the Allan Taylor Residence meeting in May, 1972? -- No, I cannot think of anything.

Now, you have already referred to it in your (30) evidence. Did you go along to that meeting? -- The Allan Taylor/...

Taylor residence meeting.

The ad hoc committee meeting. -- There was an ad hoc committee meeting at Allan Taylor Residence in May, 1972. I think the minutes are referred to in the exhibits.

It is BPC A.2. You have got those minutes, BPC A.2 in front of you? -- Yes.

Now, tell us were you there in the morning? -- I was at the whole meeting. There were two sessions, the morning and afternoon sessions.

And who -- when did you see those minutes after (10) the meeting? -- Accused No. 4 kept detailed notes of the proceedings at the meeting and when matters were still fresh in our minds I assisted him to draw up these minutes.

And what do you say about these minutes? Are they correct or not? -- Well, they correctly reflect the proceedings at that meeting.

Now, the suggestion by Harry Singh is that there was a meeting in the afternoon. What do you say about that? -- There was a meeting in the afternoon, but the meeting began late in the afternoon, actually it was early (20) evening and the minutes correctly give the time of commencement and ending of the first and second sessions.

Was there a meeting during the lunch adjournment? -- No, we adjourned for two meetings that were held on that particular day. The one meeting that I had been to was a protest meeting by students at the University of Durban Westville. It was held at the Verdic(?) Hall in Durban and Drake Koka, accused No. 9, my wife and I went to this meeting at the Verdic Hall.

And then were you present when the meeting (30) resumed? -- Yes, we all went off together and we returned

at/...

at about five.

Now that is in. I wonder whether I can ask you to deal with the inaugural convention meeting in July, 1972. Were you there? -- Yes, I was present.

Do you know who prepared the programme, that is BPC A.3? -- This programme was prepared by accused No. 4 and myself.

Now what would you say was the main task of that meeting? -- Well, the ad hoc committee had been given six months within which to investigate the formation of (10) a Black political movement. This was from now December, 1971. This time was due to expire in the middle of 1972 and in terms of this mandate the task of this inaugural convention of BPC was to adopt a constitution and make an investigation into thoughts and ideas which could go towards suggested policy to be put forward at a properly constituted congress of BPC which congress would be the highest policy making organ of the organisation.

Where was the policy to be adopted? -- The policy would formally be adopted by this policy making body (20) that is the congress.

And when did that take place? -- That did take place, the first congress of BPC was held .. (intervenes)

BY THE COURT: Congress or convention? -- Congress now. The convention was July at Edendale.

That follows on, yes.-- Congress was held at December, 1972 at Hammanskraal.

MR SOGGOT: Were you there? -- I was present.

So you were at both. -- I was present at both.

Now, to return to Edendale. By Edendale I am (30) referring to the July, 1972 meeting. Did Singh go with you to/...

to the meeting? -- No, Singh did not go with me to Edendale, neither did he return with me on any occasion to Durban from Edendale.

He suggests there were about 100 representatives there. How many would you say there were? -- Well, I would put them in the region of plus-minus 250.

Now, to deal briefly with the commission. Who headed the - let me ask you this: was there an administrative commission? At that meeting.

MR REES: I would like it to be recorded that the (10)
witness is now referring to certain documents and I would like to know what documents he is referring to.

MR SOGGOT: That is the BPC .. (intervenes)

MR REES: But still I want it on the record. The State is entitled to have it on the record that this man is referring to a document and he is reading from a document. He is not referring to his memory. -- I am not reading from a document, I am merely getting the paginated reference to BPC B.1, that is the inaugural convention minutes.

MR SOGGOT: You have got those minutes, BPC B.1, in (20)
front of you? -- That is correct.

Now, would you tell us, was there an administrative commission at that meeting? -- No, there was no administrative or administration commission at Edendale.

Where was there one, if at all? -- There was an administration or administrative commission at the first congress of BPC held at Hammanskraal in December, 1972.

Did Harry Nengwekulu head the planning commission? At Edendale? -- No, Harry Nengwekulu did not, to my best memory, lead any commission at the Edendale convention.(30)

Who headed the commission, the planning commission? --

Well/...

Well, the commission was general planning and organisation. This was headed by accused No. 4. Others who sat on it were Steve Biko and Mr. N.T. Morane.

Now, as far as that commission is concerned, did they suggest ways of crippling the economy? --- Definitely not.

I will ask you to deal with those shortly. Just to carry on, getting the perspective. When did this commission report back? Do you know? --- Are you referring to the planning commission?

The planning commission . --- At Edendale.

(10)

Yes? --- The planning commission reported back on the Monday. The convention was over three days. It was the Saturday, the 8th; Sunday the 9th; and Monday the 10th July, 1972. This was the only commission that was catered for in the agenda which reported back on the Monday.

Good. Now, was there - just persuing this theme - an internal and international commission at Edendale? --- No, there was no such commission at Edendale, but there was a liaison commission at the first congress of BPC held in Hammanskraal in December, which dealt with international and internal (20 relations. I think the only reference at Edendale to this aspect - that is internal and international relations - formed a part of the planning commission report which is contained on page 45 of BPC B.1, that is the Minutes of the inaugural convention. It is in the context of international relations, establish relations, know the history of politics and internal relations. These are put down as phase 8 and 7 respectively.

Did you head any commission or did you sit in any commission? --- At Edendale I headed the financial and legal affairs commission.

(30)

Did/...

Did you have anything to do with any other commission?

-- No.

Now, if you will just have a look at BFC B.1. The phrase appearing on I think it is page 44:

"No confrontation shall be sought with the oppressive party."

-- Yes.

What was said about that? -- Well, this was in the context of how BFC would operate in the political climate in South Africa. It falls in under phase 2, (10) Strategy. We felt strongly that we could not afford mistakes of past organisations by resorting to any form of confrontation with the authorities.

What sort of past organisational activity were you thinking of or was discussed? -- Well, the banned organisations.

And what sort of confrontation had they gone in for? -- They had been banned by the government in 1960 - I am referring to the ANC and PAC.

Yes. -- And were forced to go underground as a (20) result of that.

And what had they done in the way of confrontation, if at all? -- Well, this information I get from reading reports of trials that are held from time to time in the country.

Well, do not worry about that for the moment. Was anything said about that at this Edendale meeting? -- No, but it was in the context of we shall not seek oppression with the powers that be - I mean confrontation with the powers that be.

And is that how you understood it? -- That is (30) correct.

The/...

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The/...

The report here refers to phases. Phase 1, phase 2, phase 3. How were these phases explained? -- Well, first of all if Your Lordship looks at the programme, the agenda for the inaugural convention, it will be found that ...
(intervenes)

Is that BPC A.3 that you are referring to? -- BPC A.3 on the second page. Your Lordship will find that many of the headings - after the heading 'Sunday, 9th July, third Plenary Session - Reports of Organisational Commissions' Then 'General Planning and Organization Commission (10) with special reference to:' And there are various headings there which headings are almost carried over into the report as contained on page 44 and 45 of BPC B.1. What happened was these were the points of reference, that is BPC A.3 and accused No. 4 who reported back on behalf of the planning commission, used some of these headings which he illustrated on a blackboard. He jotted them down on a blackboard and the report back was in this type of audio-visual manner and the various points were put down. I interpret phase as an aspect, a particular aspect (20) of BPC activities, etc., because if it were phases in a chronological sense, they are not logical, they do not follow from one to the other.

Now, I am going on to a separate point.

THE COURT ADJOURNS FOR TEA. THE COURT RESUMES.

SATHASIVAN COOPER: confirms:

FURTHER EXAMINATION BY MR SOGGOT: Just to return to the commissions at Edendale for a moment, who were the various persons who headed those commissions? -- In BPC A.3 your Lordship will find that there are I think seven (30) commissions catered for. Yes, seven. There were nine commissions/...

commissions which actually reported back.

May I interrupt you a moment. On my copy there is a note of names. Is it is on your copy as well? -- Yes.

I think I had better take it back. Would you just tell us, as far as your memory serves you, who were the - who headed the organisational commission, the general planning and organisational commission? -- The general planning and organisational commission was led by accused No. 4. He was assisted by Mr Steve Biko and Mr H.T. Morane.

Yes, I think you have already said that. Do you (10) know who headed the urban and rural politics commission? -- That was headed - I am not too certain, but I think by Mr M.A. Dhlamini.

The economic development commission? -- The economic development commission was led by Mr Drake Koka.

Very briefly, who was he and what qualifications, if any, did he have to head such a development commission? -- Well, Mr Drake Koka at this stage was the convenor of the ad hoc committee of BPC. He had been and at that time was a leading trade unionist. He has been a teacher, he (20) has had dealings in the social work field.

Yes, alright. Now the Black education commission? -- The Black education commission, accused No. 9 was on that commission, but I am not too certain who actually led the commission.

Community works programme commission? -- That I remember Mr Ben A. Nkoapa being on.

Is he a man from Durban? -- That is correct.

And the financial and legal affairs commission? -- I led that commission. (30)

And Black communalism? -- Black communalism commission was/...

was led by Mr Morane.

You dealt with the question of confrontation. Then I want to refer you to the - a resolution was passed in respect of the NIC. Is that correct? -- Yes, actually there were two resolutions.

Are these reflected in the BPC documents? -- If I can have them for a minute.

I think it is page 35. -- Yes, page 35 of BPC B.1.

Now would you tell us very briefly how that resolution came to be moved? You seconded it, didn't you? -- (10)
Yes. There are two resolutions. The first one is at the top of the page and the second one which follows as a result of the first is immediately after that. I seconded both resolutions. This arose as a result of the presence of certain NIC members at the convention. Now the NIC had been officially invited to be present at the inaugural convention of BPC. As I said, I was an executive member of that body and I know that delegated representatives were sent by NIC to attend the BPC inaugural convention. Now what happened was that a few branch members from (20)
Pietermaritzburg turned up and that on the second day of convention. Now, the NIC was known for its opposition to Black consciousness and the Pietermaritzburg branch in particular was totally opposed to this idea of Black consciousness and their presence resulted in the resolution at the top of the page which asks for the matter of the NIC to be discussed immediately. Now these Pietermaritzburg members of the NIC stood for a multi-racial approach to the political solution in this country. So the matter of NIC was brought up and as a result of this matter (30)
being tabled, the second resolution was put before the house
and/...

and adopted. Now this dealt with the role of Whites and it was in the way of an explanation to those NIC persons present as to why we, that is BPC, could not accept Whites in our movement.

Now just dealing with paragraph 2 there:

"It shall in no way co-operate with Whites in mapping out a political direction."

At what stage of your struggle does that refer to? --- Well, that refers to.....(intervention)

I want you to deal with this question also in relation (10) to what you contemplated would be done with Whites/if and when you people achieved your society. --- Well, as I said, the Pietermaritzburg branch members of the NIC favoured a multi-racial approach to the political solution in this country. We, that is BPC, Black consciousness adherents and followers, felt and still feel, that Whites do not have a role in a Black political struggle as such.

SA and what do you propose for the aftermath of the struggle? --- Well, if I may just be allowed to elaborate on that. Now, we feel that the presence of Whites - and we have (20) been thinking in particular here about the presence of anodyne liberals -(intervention)

MR. REES: When the witness speaks about "we" who is the "we?" Because this generalisation can mean he and one or two of his friends, or it can mean certain other people. "We" is far too general.

MR. SOGGOT: This is so obviously in context of the organisation what they in the organisation referred to.

MR. REES: ...(Not in the microphone)...

MR. SOGGOT: I do not want to reply to that in case (30) that should confuse the witness. I am inviting the witness/...

witness to talk about he and the BPC... (intervenes)

BY THE COURT: He must just indicate to who he is referring to when he speaks in that way. -- I repeat, we, that is BPC, Black consciousness adherents, supporters and followers, feel that the presence of White liberals would tend to dilute the efforts of the Black struggle. Their presence would militate against the very thing that we are trying to create, that is an effective Black solidarity for the purposes of bargaining with the White power structure at some date when we are a solid united strengthened (10) group.

MR SOGGOT: Now would you just go on to my next question and that is what you contemplated doing with the Whites. -- Well, we believe - that is BPC now, the adherents of Black consciousness, in this context I would include SASO, we believe that for the present we need to solidify the Black community into a united block so that when the solidarity is achieved, when we have the backing of the mass of Black people in this country, the mass of oppressed Black people in this country, we can now effectively (20) bargain from a position of strength and that is the basic rule of politics as I understand it.

Yes, we have got that. Perhaps you - my question is once the Blacks have achieved their freedom, what was in store in your thinking for the whites? -- Well, if I can refer Your Lordship to BPC membership declaration. I do not know whether it is contained in BPC exhibits.

BY THE COURT: I think it is one of the generals. -- I think it is General A.1.

Yes, it is A.1. -- The BPC constitution, that is (30) BPC B.2 and the SASO policy manifesto, I do not know what exhibit/...

exhibit that is.

MR SOGGOT: Yes, well just let us deal with B.2. -- We believe and this is quite explicitly stated in our principles and aims and in the membership declaration. We talk of the present situation largely and we postulate to a small extent on what type of future society we would like to see in South Africa. Now, the fourth principle and aim on page 2 of BPC B.2 says: "to create and maintain an egalitarian society where justice is meted equally to all." This I think is self-explanatory. (10) We believe that there should be a free society based on equality, equity before the law. Then point 5 under principles and aims: "To formulate, apply and implement the principles and philosophy of Black communalism, the philosophy of sharing." Now this is an aspect of our policy pertaining to the economic life of what we would like to see happening in future South Africa. And I think that His Lordship's understanding of Black communalism is by and large what we have intended Black communalism to be. A good exposition of Black communalism is (20) contained in BPC B.1, that is the report of the Black communalism our philosophy commission.

Page 41 I think it is. -- On page 41, that is correct.

You go along with that? -- Yes.

Now, you have dealt with the NIC. Is there anything else you want to say about the NIC and that resolution? -- Well, (long pause)

As a matter of fact did the NIC remain in BPC or what happened? -- Well, the representatives, that is the Pietermaritzburg branch members stayed on and (30) conveyed the sentiments of BPC to the NIC. At this stage I was/...

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was vice-president of the NIC and the NIC I know in its first conference, accepted the principles behind the Black consciousness, but the position was taken no further than that. I subsequently after my election as an office bearer of the interim executive which was elected at the inaugural convention, resigned from NIC. As a matter of interest, Harry Singh did not resign. He may have resigned subsequently, I am not aware of that.

Now would you refer to the Black - the economic development commission? - That I think appears on (10) page 35. What I want to ask you is this: you have heard Harry Singh's evidence that what was discussed in this meeting at Edendale was ways and means of crippling the economy with a general strike. What do you say about that? -- Well, there was no suggestion of that at all. In our investigation of the thoughts and ideas at the inaugural convention.

Was that suggestion ever discussed in BPC? -- Well, in BPC as such it was not discussed. We did not believe that we ought to seek our solution by way of this type (20) of campaign. This fits in with our firm belief that no confrontation shall be sought with the oppressor party and I am quoting now from what was decided in terms of the planning commission at the inaugural convention. But certainly Mayathula for example had this as his pet hobby horse. He referred to a tools down, a national tools down. In that context I would say that somebody in BPC did make mention of this type of activity.

Well, we know that Mayathula was at one stage I think an interim was it president? -- Well, at this (30) inaugural convention Mayathula was elected onto the interim/...

interim executive, You see, the position was this, that at the end of the deliberations of the BPC at the inaugural convention in Edendale the feeling of those present was that the meeting was not representative of the Black community and because of this we could not adopt a firm policy, a firm attitude to anything until we had branches which represented various areas in the country. The only thing that was final was the adoption of the constitution and the election of an interim executive to hold a nationally representative conference within (10) six months I think the date was.

Now dealing with Mayathula, when he said things such as - the Reverend Mayathula - tools down, how was that regarded by members of the organisation? Was this regarded as authoritative or what? -- Well, I should imagine it was taken with a large bag of salt.

A large bag of salt. What sort of person would you say Mayathula was? Can you just describe very briefly his personality and, well, the extent to which he was regarded as authoritative? -- Mr Mayathula is a (20) reverend, he is the leader of an Ethiopian church in the country. I would say, without being disrespectful to him, that he is of the fire and brimstone ilk of preachers and he is a colourful personality, given to be quaint on occasion and I would put this particular national tools down as a part of his quaintness.

I am jumping around a little bit. At the BPC seminar I think it was, was any reference made by him to the Prime Minister, Mr Vorster? -- Well, I wasn't - are you referring to the .. (intervenes) (30)

I'm sorry, you were not there, so that question should not/...

not be put to you. There is a document, a letter written by Mayathula which I think is BPC H.3. -- H.3.

When did you first see that letter? M'Lord, this is the letter written to somebody in Namibia, South West Africa. -- The first time I set eyes on this letter was when it was produced in court.

Have a look at it please. We might as well deal with it here. -- Yes, your copy is marked.

M'Lord, these are Mr Pitman's exhibits. Now, I want to refer you - if you look at the first paragraph, (10) which starts "Although we have experienced". -- Yes.

It goes on -

"We want a living wage, they bring out their saracens and murder, let us now all unite and solidify ourselves and be involved in an international recognised and peaceful 'TOOLS DOWN' strike all over Southern Africa, exactly, at the same time in order to cripple the racists economically."

Now, when do you say you saw this letter for the (20) first time? -- When it was produced in this court.

In this court. Is there anything of what I have just read which represents BPC policy? -- Well, I think the gravamen of this here is reference to a tools down, a national peaceful tools down strike. That definitely was not BPC policy.

And do you know anything about this:

"The two young and militant representatives from S.W.A.P.O. who attended the B.P.C. congress near Pretoria are well informed (30) concerning the same issue and that time."

-- Well/...

-- Well, I did hear that two representatives from Namibia were present at the second congress of BPC.

Do you know anything of an agreement with them? -- No, if there was such an agreement, I am not aware of it. I would like to refer Your Lordship to this copy of Mr Soggot's has removed Mr Mayathula's signature from it. From my recollection he signs himself off as - he signs himself off "Breaking the Chains", that was our slogan, "Mashwabada V. Mayatula (Interim President/Mapumulo Branch Chairman)". Well, I do not know whether he (10) was Mapumulo Branch Chairman at that time, but I suppose he must have been. Interim president, this is rather ridiculous because the interim presidentship expired with the expiration of the interim executive committee when the first national congress of BPC was held.

Did Mayathula ever have an executive post thereafter?

-- No.

BY THE COURT: What do you know about the national convention? I see it is the Black people of Namibia, care of the National Convention. -- Well, to my (20) recollection the national convention was a sort of amalgum organisation representing the Black people in Namibia.

MR SOGGOT: I think, M'Lord, that it represents various political organisations who banded together under a name called the Namibia National Convention.

BY THE COURT: Where would SWAPO fit in?

MR SOGGOT: They would have been one of the member bodies. Perhaps you can deal with this. On page 45 of BPC. B.1

MR REES: M'Lord, may these documents this witness (30) has in front of him be removed there so that I know specifically/...

specifically when and when he is not referring to documents?

MR SOGGOT: I am quite happy to take possession of them.

I think I referred you to page 45, not so? BPC B.1.

I think it is the last page, 45, does that help you? -- Yes.

Phase 8, International relations. Establish relations, no history of politics. What did you understand by that, what was said about that and what did you understand? -- Well, this was all in the context of how BPC should go about its organisation. International relations.

BY THE COURT: What exhibit are you referring to now? (10)

MR SOGGOT: BPC B.1, page 45. -- That is the last page.

International relations, well, it is talking of BPC in the context of having relations with people outside South Africa, people, organisations, etc. The first point is establish relations and the second point is know history of politics. This simply means first we must establish relations with those organisations that are sympathetic with our cause and secondly in order to do this, we must first of all know the history of our politics in order to liaise on the international scene with such bodies. (20)

Now, as far as Harry Singh is concerned, how many days was he there at the conference at Edendale? Do you know? -- I clearly remember him being present on the first day, that would have been Saturday, the 8th July, 1972. I remember this because on this first day we did not have much by way of investigation into different aspects of our activities. The first day was mainly looking at the constitution and I remember that Harry Singh seconded or proposed a resolution dealing with the constitution. It is on page 1 of that document, the first page, BPC B 1. (30) He was the seconder.

BY/...

BY THE COURT: He was the mover. -- Secunder.

Oh, I'm sorry. -- Secunder of the resolution. I remember him also being present there just for that one day because he had come along with his wife and a Mr Jaggee Naran and Jaggee Naran was present on the second and third days of the convention, but Harry Singh and his wife were not and I say this is to the best of my recollection. Jaggee Marin I know had come up with persons from Durban in the Tecon Combi.

MR SOGGOT: I only want you to say that if you know (10) that of your own knowledge. -- Yes, I do.

How did the breaking up into commissions take place? I wonder if you could describe that briefly? -- Well, as I have pointed out to the Court, in the programme, the agenda there are 7 commissions catered for and in actual fact 9 reported back. The two which are over and above the 7 catered for were the constitutional commission which was appointed by the convention itself and the Black theology commission which was also appointed by the convention. Now, the procedure was roughly on Saturday at about (20) the time of the termination of the inaugural convention, the names of the various leaders of the commissions were read out by the chairman. The chairman was Mr Drake Koka, and .. (intervenes)

May I interrupt you. When you say termination of the inaugural convention, what do you mean? -- No, termination of the first day.

Yes. -- That is the Saturday. The proceedings of the first day. Mr Drake Koka read out the names of the leaders and participants were all asked to attach themselves (30) to a commission of their choice. Now some commissions did sit/...

sit from that Saturday evening. On Sunday morning there was the actual delimitation into commissions in session and again the names of the leaders of the commissions were read out and participants who may have come into the conference on that day, I remember specifically that Messrs Steve Biko, Harry Nengwekulu and Strini Moodley, that is accused No. 9, only arrived at the conference that Sunday morning, they had been at the Hammanskraal SASO conference. The names of the leaders, as I said, were read out again and those participants who had not attached themselves to any (10) particular commission the previous evening were asked to do so that morning and then commissions went into session, that is they investigated the field of reference that was given to them.

And when did the plenary session start up again? -- Well, to my recollection there was no plenary session on the morning of the 9th, that is the Saturday. From the afternoon I think commissions began reporting. If I may refer to the minutes, yes, I am sorry, it was not the Saturday, it was the Sunday. Sunday 9th. The reports (20) began in the afternoon of Sunday, 9th July.

Were there any people who were not absorbed into commissions? -- There ought not to have been because every participant was asked to attach himself to a commission. And Harry Singh, if he was present when these commissions sat, I am positive would have jumped at the opportunity of sitting in a commission. He is a person who is not lacking in any sort of initiative and he would have jumped at the opportunity of sitting on a commission.

Can you give us any idea who put forward the (30) suggestion about one million membership? -- Yes, this is now in/...

in the context of the report of the general planning and organisation commission which was on the Monday. As I explained before to the Court, accused No. 4 illustrated various points in his report back on a blackboard and when it came to political direction, I suggested from the house that in terms of our organisation we should make it a project that in three years we should go out and get one million members. This was a project that I put forward. A million members in three years.

And what happened to this suggestion? -- Well, it (10) was incorporated into the report and it now appears as part of the report.

Can we then proceed to the first national congress, that would have been at Hammanskraal in December. Is that right? -- That is correct.

Now, I think you have already dealt with what commissions there were there so I will not ask you to deal with that again. -- Well, I do not know if I mentioned that Harry Nengwekulu was the leader of the planning commission. There were three commissions. (20)

Yes. -- The planning commission was led by Harry Nengwekulu, the liaison commission which dealt with internal and international relations I led and the administrative commission was led by Mr Drake Koka.

Were those the only commissions? -- Those were the only three commissions.

Now as far as the resolutions which were adopted by the national convention, were they resolutions automatically taken over from the Edendale meeting or what? -- If I may have the minutes of the first congress. A very brief (30) perusal of both these sets of minutes, that is BPC B.1

and/...

and BPC C.3 will show that very few of the suggestions put forward at the inaugural convention were actually adopted in the form of resolutions at the first congress.

Now you have already dealt with the status of the Edendale meeting and the fact that an interim committee had been appointed. Now just one or two miscellaneous things in this context. Harry Singh suggested that certain things were kept secret or to be kept secret or not to be committed in writing in the minutes and so on. What do you say about that? -- Well, that I suggest is fabrication. That (10) definitely was not what happened at BPC. Harry Singh also says that I informed him, before leaving for the first congress, of my intention to attend at this first congress. That is totally incorrect. I actually went up to the first congress held in Hammanskraal in December from Cape Town where I had been present at a function, a drama function. I had not been in Durban from the end of November till the day after the first congress terminated. I think that is around the 18th, it must have been a Monday, of December.

Now Harry Singh said that the congress minutes (20) were sent to branches as a matter of routine. What is your comment on that? -- Well, the procedure adopted was not a strict formulation, but the normal procedure would have been that minutes would be sent to those persons who were present at the conference and/or the branches which were represented at that conference. But circulars would have been sent to for example branches which were not present at the conference as well in the normal course of events because one may not know whether that - or what the true reason for a particular branch not being present (30) at a conference was.

Was/...

Was the Overport Branch in existence at the stage of the Edendale meeting? -- The Edendale meeting was in July and there were no branches that were formed at that stage and as I said this was one of the reasons why no effective decisions could have been taken at this inaugural convention.

On any basis would Harry Singh have been sent a minute of the Edendale meeting? -- Of the Edendale meeting he was present; he ought to have been sent a copy.

And the Allan Taylor Residence meeting? That is (10) in .. (intervenes) .. -- Can I have the - I have not the original of the Allan Taylor Residence meeting.

That is .. -- BPC A.2. -- As I explained to the Court before, accused No. 4 was primarily responsible for the compilation of these minutes and I assisted him in the compilation. These minutes were not sent out to any specific individual. We sent up - that is accused No. 4 and I - sent up the minutes to Mr Drake Koka, the convenor of the ad hoc committee at that stage, and a copy was kept for - it may have been copies - were kept for (20) presentation to the inaugural convention. Because there was no other meeting of the ad hoc committee up till then and the space between - the time space was rather short. We - that is accused No. 4, Drake Koka and I - had been involved in the organisation of the inaugural convention.

Now one other point, on the question of BPC and the control of trade unions, what would you say the policy was? -- Well, BPC did not speak in the context of control. If I refer to the relevant commission's report, I think it is economic development commission, yes, on the (30) 4th page, it talks of on labour, the Black man's role.

BPC/...

BPC B.1, page 4, the fourth page of the document onwards. There was no question whatsoever of BPC controlling or manipulating trade union for its own use or ulterior purpose. When we speak in terms of a particular sphere of activity and in this context, we are speaking of Black workers. We are talking of the situation which is denied the Black people. Black workers in this country have no effective bargaining and it was in the context of BPC initiating and working so that workers would have a voice in industrial negotiations was this suggestion put (10) forward. There is a brief summary in the minutes of the impressions created by trade unions, the whole trade union structure, the industrial conciliation act is mentioned. All this fits in with a lack of trade unions and that BPC should actively encourage the formation of such trade unions, not control them.

Then as far as the Overport branch is concerned, two points. The suggestion was that you wanted it formed as a facade for additional voting strength. What do you say about that? -- That is totally incorrect. (20)

And that you happened to get teachers from the training college for the purpose of indoctrinating them. -- Yes, I remember Harry Singh saying this when it was put to him that he wanted to form some sort of underground cell. That is also totally incorrect and misleading, misleading I say in the context of Black consciousness. Black consciousness is not a manipulative theory, it does not work in the way that Harry Singh has made out to this Court. It is born of the genuine aspirations and desires of the Black oppressed masses in this country and gives positive creative (30) expression to these aspirations. It can never be given to this/...

this sort of manipulation, control, this devious ulterior motivation, because Black consciousness is not like that. The very letter of Black consciousness will bear me out.

Was the Overport branch represented at the first congress of BPC, that would be at Hammanskraal? -- No, the Overport branch was not represented.

And you yourself did you address the Overport branch at all? -- Yes, I did, there was a sort of teach in one afternoon or it must have been early evening and I was asked to explain aspects of BPC policy. This was (10) in specific reference to Indians because the Overport branch was controlled - was comprising at that stage mainly Indians; there were a few Coloureds in that branch.

Now, just try and keep the chronology in order. You were responsible for BPC D.2. Is that correct? -- Which document is that?

That is the stevedore strike I think. -- Yes.

Now, this document had a sequel. I think you were prosecuted for it in the Regional Court, Durban. -- No.

I am sorry. -- It wasn't this document. (20)

Which was used against you. -- But this document was referred to in that particular prosecution.

Now, as far as BPC D.2 is concerned, could you tell His Lordship briefly what it relates to and what you intended to accomplish with such a document? -- Well, if Your Lordship looks at the bottom, you will find that it was issued at about 11 p.m. on Monday, the 23rd October, 1972. That day there had been a strike by stevedores employed by the Durban Stevedoring Labour Supply Company and this was a press statement that was issued that (30) evening in support of the workers' legitimate demands.

The/...

The workers were demanding better conditions of employment, better wages, they were demanding negotiation machinery and to put it in its perspective, the Durban Stevedoring Labour Supply Company recruited labourers from the various labour reserves, euphemistically called the homelands for ... (intervenes)

MR SOGGOT: Now ... (intervenes)

MR REES: How can he say they recruited there. Does he know anything about it or can he say they are reported to have done? (10)

MR SOGGOT: If my Learned Friend had only given me a chance, I was about to ask him what his source of information was. Now you had a certain approach or understanding of what happened. Is that right? -- That is correct.

And did that affect your formulation of the pamphlet?
-- Yes.

And where did that information come from? -- Well, from reports in the daily newspapers of that specific time and prior to that there had been exposures in various branches of the press of the conditions of employment (20) likening them to neo slavery in this particular sphere of work.

And some of those cuttings you have got in your possession. -- I do have them, yes.

Allright.

BY THE COURT: You are entitled to give the background of this. Well, how did the labourers from the homeland areas come into this picture? -- As I was explaining, the Durban Stevedore Labour Supply Company recruited labourers from the labour reserves in the various homelands (30) to work as stevedores in Durban. Now they were the actual employers/...

employers of these various stevedores employed in the Durban harbour at that time. Now, the labourers were given very low wages, I cannot remember the exact wages paid at that specific time, very low wages, far below the minimum bread-line let alone an effective line. The workers were herded into hostels lacking sanitation facilities, lack of recreation facilities, stringent conditions applied to the usage of these hostels.

BY THE COURT: How do you know these things? -- From reports in the newspapers. I have some reports (10) available and the workers were denied any type of effective bargaining power. I do know that subsequently some form of worker committee, I think it is in terms of the Bantu Regulations Amendment Act, was set up. I do not know whether it was a liaison committee or a workers committee, but I do know that some sort of committee was subsequently set up and the press at this time was hammering this particular recruiting agency for the conditions of neo slavery within which they had employed these labourers and this document here, BPC D.2 was a press statement in (20) support of the workers' stand in demanding legitimate rights and it was severely critical of the Durban Stevedoring Labour Supply Company in particular. If I may point out to Your Lordship one of the typical things that happen in South Africa is trying to pass the buck on to somebody else and this is pointed out clearly. The last paragraph says:

"Our Black brothers have stated their case which must be supported by any person with even a minute sense of fair (30) play. It is now up to their employers to/...

to play the game. It is senseless trying to pass the buck on to the Wage Board, the South African Railways or any minister. They are equally at fault, but the Durban Stevedoring Labour Supply Company (Pty.) Ltd. are the employers and it is within their power to see that justice is meted out without victimisation"

and I think that this is the crux of what is being said in this document. It hits at the heart of the matter. (10)

MR SOGGOT: Now dealing with this document and "Dedication" and for the moment let us be quite frank about it, all the documents that you have composed, did you at any stage intend to ..(inaudible) or encourage or further feelings of racial hostility against the White people? -- No.

BY THE COURT: Was this press statement published at all? -- I do not think it was ever published. The cuttings that I had kept at that time did not reflect it.

I am referring to BPC D.2. -- No, I do not recollect it ever having been published, but it was issued to various sections of the press in Durban. (20)

MR SOGGOT: Was it distributed amongst workers? -- No, it was a press statement.

A press statement. -- It was a press statement.

And do you know whether BPC people in other parts of the country would have been aware of this statement? Let me put the question to you in this form first: when this sort of press statement was made, were copies sent to other branches in the country? -- No, other than in terms of what I considered to be my duty as public relations officer of the interim executive at that time and as such I issued/...

issued this statement. It would have been in head office, but it would not have been disseminated at all, it was merely a press statement. It has been kept for record purposes as I did keep a copy of it.

Now, I think it might be convenient to go from one strike to another and that is to deal with - it is not a strike, but it is the Chatsworth episode. Now, I think we have had rather extensive evidence as to - and cross-examination as to what this boycott was about. Is that correct? -- Yes. (10)

And the people wanted their buses and they did not want the trains. Is that correct? -- Well, the position was that there was a bus service right from the inception of the Chatsworth Township but there was no train service. The train service only came in many, many years after the completion of the township as a project and it was in fact outside the township. It ran to the north of the township, it caused considerable inconvenience to the commuters; the bus service had been there, it was cheaper and the bus service was much more convenient, it did not involve (20) extra mileage in terms of actual walking.

Who organised, if it was organised at all, the train boycott? -- Well, I would not say that there was a boycott as such. What I do know is that the commuters were not supporting the railways because the railways for one was inconvenient in terms of extra walking that they had to do, there was no inner service bus transport, a shuttle service from the various units to the railway station; the bus service was far cheaper than the train fare. Even the weekly train fare, the season ticket, (30) and what was happening at this stage was that the South African/...

African Railways had applied to the Transportation Board to - they had ^{op-}posed rather an application by the bus owners for a renewal of their carrier certificates and it continued in this way. There was an ad hoc committee set up by the Secretary for Transport. Eventually the matter was resolved in the Supreme Court, but the gist of it was that the Railways was opposing the renewal of the carrier certificates of the bus owners in Chatsworth and this matter was the cause in issue.

Were meetings held in Chatsworth in relation to (10) this issue? -- There were several meetings held.

Who called these meetings? -- Well, there would have been various organisations calling these meetings, there would have been the bus owners themselves, there would have been meetings called by various residents associations of the various units in Chatsworth and at this time, that is towards the end of September, meetings were planned by the bus action committee. It was set up by residents' associations.

Did BPC have anything to do with the formation (20) of that? -- No.

Carry on. -- It consisted of residents' associations, commuters and the bus owners and the important point was that on the 1st October, I think, 1972, the buses were to stop operating so that the citizens of Chatsworth were deprived of a legitimate choice in their means of transport and this would have been effective from the 1st October, 1972. Now, as I said, there were meetings held by various associations. On the 23rd, it was a Saturday, of September, 1972, a meeting was called by the civic association (30) of that area in Unit 7 in Chatsworth and on the 24th, the next/...

next day, a meeting was called at unit 3.B and this was the meeting where annexure 2(ii), if I can have a look at the annexure?

We are trying to get it out. --- Now the meeting on the Saturday, I did attend, but no pamphlets were distributed at this meeting.

Now, you have got 2(ii) in front of you. --- That is correct. No pamphlets were distributed at this Saturday meeting, that was on the 23rd at Unit 7. I was present as was accused No. 9 at this meeting. The next day, that is (10) the Sunday, 24th September, 1972 Annexure 2(ii) was written, roneod and distributed. It was distributed that afternoon at the meeting held at Unit 3.B. This was the first of what we can call the Chatsworth Papers. And I got Mr. Jaggee Naran to translate what is written at the bottom of the pamphlet. The first language is Hindi/Gujerati, I am not too certain which one in particular. The second language is Tamil. Mr. Jaggee Naran translated these for me. And this pamphlet was distributed at the Chatsworth meeting held on the Sunday, the 24th September at Unit 3.B. (20)

Now, is it in the Tamil or the Gujerati that there is a reference to "or the White men will kill you?" --- Well, the idead I was trying to convey was that.....(inaudible)..... with the whole context of what has been said above that, the message to the people of Chatsworth there, look, we must wake up now or the White man will overwhelm us, in that sense. It fits in with the approach of BPC for examplae. that is we must have a solid united block before we can effectively enter into any bargaining with the oppressors' power structure. (30)

Harry/...

Harry Singh says he pointed out to you that some of the words in the vernacular means "kill us". Is that correct? -- There would have been no reason for him to point this out to me at all. I do not recall him ever having pointed this out to me.

Now you yourself participated in the distribution of that pamphlet. Is that right? -- That is correct, I did.

Was there, as far as you know, any response to that pamphlet in the way that people's emotions against the Whites being stirred up? -- No, there was no particular (10) reaction to this pamphlet. In fact it is not directed at any form of emotional reaction against Whites as such. The people just - well, this is your pamphlet, this is what you say, BPC, thanks. Because the people of Chatsworth were directly involved in the type of oppressive situation that I am describing in this particular pamphlet, bearing in mind that Chatsworth is a township for Indians like all the ghettos in this country and I have never lived in a township. This would be something that they are fully aware of. It is just pointing out to them (20) that we must organise effectively. We must be a solid united voice otherwise the Whites will just annihilate us in the political sphere.

Now, at one of these meetings there was trouble with a person called Omar Batsha. -- Yes.

Just tell us about that. -- Captain Nayager referred to the fact that Omar Batsha had come up with accused No. 9, myself and various other persons in a Combi. That is incorrect. In fact he even mentioned the name of a Miss Asha Rambally. She was definitely not there on that (30) occasion. Omar Batsha is an activist, a political
activist/...

activist and he caused trouble at this meeting. Later on the meeting ended before it actually got off the ground and well, I would say Onar Batsha was the contributing factor to the meeting closing, but the chairman of the meeting was also responsible for the disruption of this particular meeting.

Did you participate in that meeting at all? -- No.

Now, I wonder whether you would have a look at Annexure 2(i), tell us about that. -- Yes.

Did you prepare that? -- Is it the handwritten (10) one?

It is "Black Brothers and Sisters .. The Black People's convention applauds ..." -- Yes, that is the handwritten one.

Yes. -- Yes, I have the original here.

Now, you wrote that, did you? -- I did. I wrote all three documents.

Why did you prepare that? For whom was it prepared, for what occasion? -- Well, this, if I can take these in sequence, the Annexure 2(ii) is the first document, (20) it was distributed on the 24th September. The second document is Annexure 2(iii), that is the printed pamphlet, "Leader Press" at the bottom, that was the second pamphlet. This was distributed after the meeting the last week in September, 1972, congratulating the people and the last of these documents is Annexure 2(i). This was a message to a meeting convened at that same venue, that is Unit 3.B by the NIC, Natal Indian Congress, towards the end of October, 1972, to protest against the arbitrary suspension of the bus service. That was (30) on that - I would like to point out to the Court that

in/...

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in the further particulars I think it is, it says September, 1974. I think it is and there is some reference in the old indictment to Johannesburg, being distributed in Johannesburg, etc. I would like to point out that the pamphlets are in the sequence I have pointed out, that is Annexure 2(ii) on the 24th September, 1972 Unit 3.B ground only; Annexure 2(iii) was the last week in September in Durban and Annexure 2(i), that is the message, was read out at the meeting organised by the NIC.....(intervention)

Who was it read out by? --- It was read out by Mr. George Sewpersadh, an attorney, who was also president or chairman of NIC and chairman of the meeting. (10)

Where did he read it out and to whom? --- He read it out at the meeting towards the end of October in Chatsworth.

In Chatsworth? --- Unit 3.B.

Is Mr. Sewpersadh still carrying on practice in Durban, as far as you know? --- Yes. Not Durban, but Verulam, unless he has switched to Durban now.

And on a very minor point. Did Harry Singh help you distribute Annexure 2(iii)? --- No, the only document that I know Harry Singh assisted in distribution of, was the one that I was charged for racial hostility in the Regional Court in Durban in February, 1973. There was no other document that he assisted me in distribution, or that he was aware that such a distribution was going to take place or such a document is going to be issued. (20)

Just to clarify one thing. In your Chatsworth pamphlets, or in anything the BPC said in relation to Chatsworth, did you actually call for a boycott of the trains? --- No, and it does not say so in any of these (30)

documents/...

documents.

I wonder if we may deal briefly with the incident involving the late Mr Shezi. Did you know Mr Shezi? -- Yes.

And did you have any personal knowledge of how he came to meet his end? -- Well, on the Monday after the conclusion of the first congress of BPC held in Hammanskraal in December, I think it was the 18th, Monday the 18th, December, 1972, I went along to see Mrs Shezi at her house in Tembisa.

And did she make a report to you? -- She did. (10)

His Lordship, my submission is her report, as also what was published in the press, is evidence I can lead as it is relevant to the state of mind of members of the organisation as to what they did or did not bona fide believe.

BY THE COURT: Is that to prove the correctness of the .. (intervenes) .. that is the type of information he received.

MR SOGGOT: That is so. I wonder, would you tell His Lordship what she told you? -- Well, she told me that her son was involved in an altercation with a train official, a railways official. A few days before the actual incident which resulted in his lying in hospital. She told me also that her son had gone up to this White train official and ensured him for his behaviour in respect of a few Black passengers and on the day in question, the day when he was pushed in front of the train, this official saw him on the platform and pushed him in front of an oncoming train. She also told me about the fact that her son was first taken to the police station before he was taken to the hospital and that this sounded rather suspicious to her because in the context of the Security Branch/...

Branch turning up at her house and informing her that her son had pick-pocketed or done something of that kind and was in custody. They searched the place under this pretext, taking away a lot of SASO/BPC documents and later returned all of them saying they are innocuous, there is nothing there.

I want to show you a news cutting which appeared in 'The World'.

MR REES: My Lord, I would like to know what the purpose of this is first before the witness - it is shown to (10) the witness. Has he seen this document before or is he asked to comment or what?

MR SOGGOT: He will give evidence on whether he had seen it, but this in effect is a newspaper cutting reflecting the same story as to what was reported to her and what she knew, but printed in "The World" which is a .. (intervenes)

BY THE COURT: He would not know anything about it.

MR REES: If this is seeking a sort of sideways corroboration of his story or an emphasis of it, I object.

MR SOGGOT: If he saw the article, my submission is (20) this is evidence that such a thing was printed and this is relevant to other members of the organisation who - and their state of mind.

BY THE COURT: You will first have to lay a proper foundation before you can do that.

MR SOGGOT: Do you know of any publications in "The World" relating to this incident? -- Well, in "The World" amongst others I kept cuttings of this incident.

When did you see this? -- Well, I do not know which specific cutting you are referring to, but there were (30) cuttings in "The World" in December Shezi's mother - the report/...

report of Shezi's mother to the reporters and there were speculations in "The World" about his death not being accidental, this is "The World" also. There was coverage .. (intervenes) ...

Where does "The World" circulate? Amongst what people? -- Amongst Blacks.

M'Lord, I wonder if I can give him this, ask him to identify it.

MR REES: I object to this. It is not relevant. It is his state of mind or anybody's state of mind at all. (10)

BY THE COURT: You are going to argue that, if I understand the case correctly, that he had no right in saying it was a deliberate killing of Shezi.

MR REES: (inaudible)

BY THE COURT: Well now, he says well that is my information and I acted on that information, but it does not prove that he died as indicated in the letter, but it is some indication of what was in his mind when he made the allegation.

MR REES: He has already said that he saw in "The World" these allegations of Mrs Shezi repeated, elaborated on, etc., therefore he knew what the source of these allegations were and merely to say it has been published in a hundred newspapers or a thousand newspapers doesn't affect his state of mind. (20)

MR SOGGOT: It is relevant to his state of mind and other accused. This is a conspiracy.

MR REES: Well, he cannot speak of other people's state of mind, they must come and speak of it themselves.

BY THE COURT: I will allow it because if only for its evidential value that that sort of report appeared in the/... (30)

the newspapers.

MR SOGGOT: I think this would be QQ. As far as your own state of mind is concerned, did you believe these allegations or what? -- Well, from what I had heard from Mrs Shezi and what I read in the papers, not specifically 'The World' only, I have no reason to believe otherwise and I followed the inquest proceedings and I definitely think that Mr Shezi was pushed in front of that train.

When you saw Mrs Shezi was any other member of BPC with you? -- Yes, there were a few BPC people. (10)

Do you remember their names? -- Mr Chris Mokoditwa, he was the vice-president of BPC. This was now immediately after the first congress. He would have been then the first vice-president of the first executive. And Mr Harry Nengwekulu, he was a permanent organiser I think of SASO at that time. I remember there were I think two other women, one of whom was Miss Debs Mashoba. She is also a leading member of SASO.

M'Lord, may this witness be given the I think it is EXHIBIT FF, that is the Black Press Seminar which (20) was referred to by Dr Turner, the minutes of that seminar. Did you attend such a seminar? -- Are you talking about the one held in Johannesburg in October, 1972?

Can I just check that? The seminar of the 9th and 10th 1972 in Braamfontein, Johannesburg. -- That is correct.

Did you attend that? -- I attended that.

I want to show you EXHIBIT FF. Tell us whether you can identify it. -- Yes.

And are those the minutes of that seminar? -- (30)
Well, I do not know whether they are the actual minutes,
but/...

but it is a report of the whole proceedings at the Black Press Seminar.

Do you know that report? Can you identify it? -- Yes, I do.

While we are about it, may I show you a minute of an executive meeting held in SASO office on Saturday, the 5th August, 1972. Were you present at such a meeting? -- Yes.

W'Lord, this was also referred to by Dr Turner. And can you identify those minutes as being the minutes (10) of the organisation? -- Yes.

BY THE COURT: What exhibit would this be?

MR SOGGOT: I think it would be RR. And then a further minute ... (intervenues)

MR REES: W'Lord, I think the State is entitled to .. (inaudible - not into the microphone) .. this witness must say what is his knowledge of these things and how. My Learned Friend must prove these documents if he wants to rely on them in the ordinary course of proving a document.

MR SOGGOT: The witness did say he knew it, but we (20) will go through the details.

BY THE COURT: You say you attended this meeting? -- I did.

Have you looked at the minutes?

THE COURT ADJOURNS.

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