

SHAW CHERRY

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

88

CASE NO: 18/75/254

DATE: 11TH MAY 1976

THE STATE

VS

S. COOPER AND EIGHT OTHERS

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LUBBE RECORDINGS (PRETORIA)

COURT RESUMES ON 11th MAY 1976

AUBREY MOKOAPE, STILL UNDER OATH:

CROSS-EXAMINATION BY MR. REES CONTINUED: Dr. Mokoape, I think if we get a few matters clear then it will assist. I would just like to get clear which of these meetings of SASO and BPC you admit that you attended. Did you attend the 2nd GSC of SASO in Durban in July 1971?

--- No, I did not.

You did not. The National Organisation's conference in Orlando in December 1971, did you attend that? --- Yes, 10
I attended that.

The SASO Sharpeville commemoration meeting in Durban in March 1972? --- That is the one we were speaking about yesterday - yes, I attended that.

BPC ad hoc committee meeting in Durban in May 1972? --- Let me point out with regard to that meeting that it was an SRC meeting at the Alan Taylor residence.

Just a minute, which one are you talking about now?
--- Alan Taylor residence meeting, March 1972.

You say? --- It was an SRC meeting. 20

Then the BPC ad hoc committee meeting in Durban and in connection with that meeting you say you prepared the documents EXHIBIT BPC A.2, just have a look at it and make sure that we are speaking of the right thing
--- I wrote these Minutes.

The 3rd GSC of SASO at Hammanskraal in July 1972?
--- I did not attend that.

The BPC Sharpeville commemoration meeting in Durban in March 1973? --- At the Kajee Hall?

Yes? --- Yes, I attended that. 30

Now / ...

Now which other GSCs did you attend? --- SASO GSCs?

Yes? --- I have not attended the SASO GSCs.

Not on? --- Not one.

But you got the Minutes of the meetings did you not? --- I did not specifically get the Minutes of the GSCs.

Well, what did you get? --- I did not get the Minutes of the GSCs.

Did you know what was going on in SASO? --- Yes I had a fair idea of what was going on in SASO. 10

Where did you get your idea from? --- As I say I spoke to SASO people, my campus was affiliated to SASO, delegates were sent to attend on behalf of the entire body SASO GSCs.

And then did you make it your business to find out what was happening in SASO? --- Well delegates gave reports when they came back from SASO GSCs.

And throughout you supported SASO? --- Yes, I have always supported SASO.

With regard to BPC, you have always fully supported BPC? --- Yes, I have always supported BPC. 20

And you were as it were a foundation member? --- I was a founder member of BPC.

What office did you hold in BPC? --- I was a member of the ad hoc committee which led to the formation of BPC.

Yes, and what else? --- I held no other office.

What branch did you belong to? --- I belonged to the Meerwent branch.

What dealings did you have with the Durban Central 30

Branch / ...

Branch? --- Well, normal dealings, branch to branch dealings, speaking with members of the branch, and at this Kajej Hall meeting of 1973 I was invited by the Durban Central branch.

Who invited you to this 1973 meeting? --- You mean specifically?

Yes? --- I think it was Mr. Colin Jeffrey.

Yes, did he personally come to you or did he send something? --- He spoke to me personally.

Who indicated to you what the subject of your speech should be? --- Nobody indicated to me what the subject of my speech should be. 10

Were you at liberty to say what you liked?--- Yes, I just came there and I spoke off the cuff as I saw issues.

With regard to the rally, you you say became interested that the matter should run smoothly and that they should that their publicity is done properly? --- That is correct.

And why did you have that particular interest? 20
--- Well primarily as a supporter of the movements, both SASO and BPC, and also because I thought this was an important rally for Black people to express their happiness over the accession to power by the people of Mozambique.

Now when Harry Singh came back from his fund-raising trip on behalf of BPC, did he bring some money with him? --- I do not remember specifically whether he did bring money, but I know that he said that he had got some funds, but I do not remember whether he had them on 30

him / ...

him personally.

Do you know what happened to those funds? --- No, I do not know what happened to them.

Do you know who he handed them over to? --- Well I just suppose he handed them over to the executive.

Who would be the Executive? --- PAUSE

Who was in control of the funds of BPC? --- At that time I think the Executive consisted of the Reverend Farisani who was president, I think Mr. Colin Jeffrey was vice-president, Accused No.5 was also on the Executive and Accused No.8, those are the ones I can remember now. 10

Now, Harry Singh and Accused No. 1 came to you shortly before Harry Singh left? --- That is correct.

What did they come to you about? --- Primarily it was to ask me if I could assist in obtaining funds for Harry Singh to go over to America over and above his going to Europe.

How could you have assisted? --- Well through my contacts.

What contacts did you have? --- Well I have contacts 20 I work in the hospital in the first place ..(Mr. Rees intervenes)

No, what contacts do you have, I do not want to know how you get them, who are the contacts? --- Contacts are just people I know who may have money.

Who, who did you say he could go to? --- Well with regard to locally there was not anything I could assist him with, but with regard to abroad I gave him the name of an acquaintance of mine.

Who? -- Dr. Bernard Jeune. 30

What / ...

What made you think that this Dr. Jeune would be in a position to assist this man with funds?

--- Because I knew Dr. Bernard Jeune.

Yes, well the fact that you know somebody - you know Accused No.1? --- I knew Dr. Bernard Jeune and I had been with Dr. Bernard Jeune when I was in Europe and he sympathised with the cause of the Black movements in this country, and he was a man who had some funds.

What was the source of his funds as far as you know? --- He was a professional man and he was generally well to do. 10

Do you mean he had funds of his own? --- He had funds of his own.

Do you think he would have just dished them out for somebody, how much would it have taken to take Harry Singh to America and back? --- I do not know probably about R1 000 or something, from Europe, because Harry Singh did have a ticket up to Europe.

Are you suggesting this man would be prepared to dish out his own funds for that purpose? --- Yes, he was a friend of mine. He was a friend of mine, and he was a man of means, and he sympathised with our cause and I knew that he was a man I could trust. 20

You see this was not suggested to Harry Singh at all was it that he was to get funds from a Mr. Jeune or a Dr. Jeune? --- Where was it not suggested?

Here in Court? --- Well my Counsel runs my case.

Yes, but your Counsel only acts on what you tell your Counsel? --- Well I tell Counsel everything that there is to the case and he decides what to suggest and what / ... 30

what to put.

Another aspect, did Harry Singh ever visit this man? --- He tried to get in contact with him when he was in Geneva and he failed.

Oh, this man in Geneva? --- In Geneva.

And where had you studied? --- I studied in Denmark.

Where did you meet this doctor? --- I met him in Denmark.

And is he a Belgian? --- No, he is a Swiss. 10

What was he doing in Denmark? --- He was at the hospital there he was doing some time studying some course there at the hospital.

Could you just explain ..(witness intervenes)
-- He was a visiting doctor at the hospital where I was.

Did you say he had sympathy with the Blacks in South Africa? --- Yes he had sympathy with the Black Consciousness movement.

Well, tell us about it, how do you know he had sympathy, how did he express it? --- I spoke to him, he was a friend of mine, I spent a lot of time with him. 20

What did you tell him about the Black Consciousness movement? Basically, in broad outline? --- Well I told him that it was a movement of Black people trying to rally around and see how they can solve their problem of oppression in this country.

Tell me, was it basically the same type of information you gave to him as Harry Singh took with him on his fund-raising trip, you know Accused No.1 and Harry Singh drew up a document which Harry Singh took with him, 30

I / ...

I think this is BPC R.1 - just glance through that and tell the Court whether that is basically the type of information you had given to this doctor? --- Well in the first place when I went to Europe BPC did not exist so that puts this document right out of the picture.

It puts the document out of the picture yes, but that document - you had been a follower of Pan Africanist Congress? --- Yes, that is correct.

And also of SASO? --- That is correct. 10

And you considered that BPC was the follow-up of the Pan Africanist Congress? --- No, I never made that suggestion.

I am asking you whether you considered that? --- I considered or conceded?

Considered? --- No, BPC is not a follow-up of the Pan Africanist Congress.

Is it not filling the void that was vacated by ANC and PAC? --- In a manner of speaking as I told you yesterday, the struggle for Black people in this country is an old one, and there have been movements throughout the struggle, some of them have died a natural death, some of them have been banned, but all of them primarily trying to work for the humanisation and the human dignity of Black people. 20

Now when you spoke to this doctor overseas, what basically did you tell him, did you tell him about the struggle for freedom? --- Yes.

What else? --- Well that is all in a nutshell, and that there was SASO and that SASO was trying to organise 30

Black / ...

Black students, to try to get Black students and the Black community to seek an identity, and this they were doing through Black Consciousness.

Did you tell him how you are oppressed in the country?--- Yes I did.

Basically what is contained in the SASO documents? --- Well I think we have to speak of this specific document, but what I told him is what I am saying now that Black people in this country haven't got the right to vote, they are denied the right to participate in decision-making processes, they are subjected to harsh and cruel laws, and of course he had an idea - perhaps I should put this in perspective, when one gets to a place like Europe especially amongst students lots of people ask about South Africa because South Africa is a topical issue the world over, the policies of apartheid, so it was just natural that I should speak to people about South Africa, and it was also just natural that I should speak about the new movement which was then SASO.

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Would you tell him basically the same type of thing as you expound at the Sharpeville commemoration meetings? --- As I expound?

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Yes, as you expound? --- No, not necessarily, what I was saying at the Sharpeville commemoration service is connected with Sharpeville, the issue of Sharpeville, it is not - it does not cover the entire range of the Black experience in this country.

Did you include that type of thing in your discussions with this doctor? --- Well I wouldn't know, it is a man I lived with for a long time, I would have spoken / ...

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spoken to him about various issues.

Well Sharpeville is a matter which is of great propaganda value to you in your movement? --- It is not of great propaganda value it is of great historical importance in the life of Black people in this country.

Is it or is it not of great propaganda value?
--- It is not of propaganda value it has never been used for propaganda, it is merely for the purpose of remembering an historical event, trying to say to people that we must remember those who were attempting to find freedom, and that we ourselves must commit ourselves to freedom, of course to try also to show the White superstructure that we do not like these things happening to us. 10

I noticed when No.1 gave evidence he seemed to be or claimed to be very sensitive at what he says was a remark by someone that the food that you people get here is probably better than you are used to, do you remember that? --- I remember something of that nature.

Were you also sensitive about this? About that type of remark? --- Yes I was sensitive about it because I think it underlines a basic racist attitude, that is that we are doing better for you than you can do for yourselves, we are giving you better food, actually keeping us in prison is doing us a favour because outside we would be starving. 20

Another aspect I would like to get, this man Steve Biko, is it, now he appears to suggest that he became very sensitive about this White man calling his Black assistant a fool, do you remember that? --- Yes, I remember. 30

Now / ...

Now, is your interpretation also that this caused him some reaction, he did not like it, Biko did not like it? --- Biko did not like it and no Black man likes it.

Why not, what is your reaction to that, your personal reaction, I would like to know why they do not like it? --- Well Black people ..(Court intervenes)

COURT: Well who likes it, Mr. Rees?

MR. REES: I would just like to hear the reasoning, M'lord.

--- Because Black people like any other people in the world cannot stand being continually hurled insults, continually being called names, and not only that, but being treated after the fashion of those names, that is he is not only called a fool but he is treated in a manner that depicts the treatment of fools, I think that is an important dimension to it, the treatment that is associated with these insults and with this name-calling. 10

Now you see in my limited experience I have seen both in Europe and here, everywhere, it is a common thing for workmen to call one another names, and they do not mean anything, nobody takes offence? --- I am afraid my experience in Europe is quite different from that, because I have seen workers and I have made it a point to be in work situations and I found that there is a vast difference between the treatment of workers there and workers here. I found that there is rapport between foremen and the people who work under them. 20

Oh, and when the one bloke - when the one man puts something in the wrong place what does the foreman say to him or what does he say to the foreman? --- Where? 30

What / ...

What do you think the Cockney would say to somebody who puts his foot in the wrong place when he is busy digging? --- He may at times say: you are a fool, but it cannot be equated to what happens here in South Africa, because here it is a barrage of insults: you are a fool, you Kaffir, you lazy, you are - some of them even say we smell, and the entire thing, and over and above that I think this dimension of the treatment that accompanies those words must be taken into account.

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Isn't the point you are trying to make here that when you insult a person like this you call him names like this and you appear to act accordingly, he resents it and he does not like it? --- Not appear to act accordingly but act accordingly, if you call him a fool, you call him a lazy Kaffir, and at the end of the week you pay him R3, you make him carry a pass, you make him stay twenty miles away from his place of employment, you make his children study Bantu Education which he has told you he does not want, you make his wife carry a pass, you make him live in a four-roomed house, you restrict his freedom of movement, this entire picture is one that he dislikes. So it is not merely a question of calling him the name but it is a question of also treating him, according him the status of that name, the status of "boy" as I tried to explain to this Court the other day.

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But you yourself then use the term "boy" when you spoke on the phone, you said: send that boy to..(witness intervenes) --- That is right, that is right, that is where the difference lies, because when I call my

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colleagues / ...

colleagues boys it is in a friendly fashion, it is an indication of acquaintance, and I do not treat them like boys. But when a White man calls me a boy he also accords me the treatment of a boy.

You see, the point I really want to get at, how does all this name-calling differ from how you and your organisation refer to the Whites, and you expect them to react when you call them murderers, when you call them Nazis, when you call them oppressors, and you act as if they are doing these things? --- I think one must make a clear distinction there. First of all we have never called Whites murderers, we have talked about them murdering people in specific instances, and secondly when we do speak about these things it is a question of describing a situation as we see it, and more important we do not say because they killed people at Sharpeville therefore we should kill them, we don't treat them in that fashion, we say: we want to live equally with White people in this country, we want to share.

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Yes you see your people say, when you get this Tiro and Shezi affairs, you say: this is how the system is setting about decimating the Blacks, that is what you say, you don't say: this man is murdered, you say this is typical of the system? --- I think we will have to get to specificity because I think generalisations will tend to mislead, because in a particular instance a thing is referred to in descriptive terms as the man who writes sees it.

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Why do you say generalisations can mislead? --- The generalisation that you are making now.

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Why / ...

Why do you say generalisation can mislead? --- It can mislead because we have the documents here by which we can go to the specifics.

Yes but why can a generalisation as such mislead, why do you say that? --- In the way in which you are using it.

No, never mind the way I am using it, why do you say a generalisation can mislead? --- Well it can mislead because it may not necessarily take into consideration the specifics.

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You see if His Lordship should find that SASO and BPC in their documents take a specific incident and then generalise and say: this is typical of how the Whites react? --- But the point there, when a person does that kind of thing it is tied up with the Black experience which I have told you and which I was trying to even illustrate now, that oppression is viewed by Black people as a totality, there is a totality of oppression. When the man calls you a boy he treats you like a boy.

That is the message which you personally through SASO and BPC are trying to convey, that by using specific instances and then you generalise from that? --- No, but unless you are contradicting me and saying I am wrong if I say to you the White system and White people call me a boy and they treat me as a boy, they make me carry a pass they make my wife carry a pass, they commandeer me into a Bantustan which I have expressly said I do not want to go to, they tend to disinherit me of the land of my birth which is South Africa, therefore all these things are tied up.

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Exactly / ...

Exactly, now ..(witness intervenes) --- Also - wait, Mr. Rees, there is this question in South Africa we know, and I think I am wondering why you are contradicting this because racism is enshrined in the Statutes of this country, it is enshrined there in the Statutes, the government will disagree with you if you say that in this country the government stands for the interests of both Black and White, because the government frequently and government spokesmen frequently say that White interests come first in this country.

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Yes, you see, what you are doing, what you are doing, you are saying to a Black man: look here, you are in a difficult position, and he says: why, you say: oh, look at all these things you have just mentioned, that is your method? --- Well I think if you picked up the South African Constitution on which this country is based, the Union Act, you will see there it specifically says that Members of Parliament shall be White people, if you take the ..(Mr. Rees intervenes)

No, you have not answered my question? --- Ho, I am trying to ..(Mr. Rees intervenes)

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You take all these factors and you say to the man: hey, you are in a difficult position, look at this, look at this, and the White man is responsible, that is what you are doing isn't it? --- But this is common knowledge.. (Court intervenes)

COURT: He is trying to tell you that it is so. --- It is common knowledge, if this is a desk I cannot say to you it is a motor car (LAUGHTER)

You see Mr. Rees' first point is that if you are

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in / ...

in a working situation, well people are not very choicy about their language, he says now if you take Mr. Biko's example where he called a person a fool, well Mr. Rees says that is what you must expect in a working situation, people are not choicy about the language they use? --- Well, M'lord ..(Court intervenes)

They give vent to their feelings and it is over again? --- M'lord, that is why I am making this important dimension that it is not only a question of.. (Court intervenes)

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Do you say in the whole context? --- . . . but the treatment which is accorded to the man tallies with the name that he is called, I mean when White people say you are lazy and they pay you R5 at the end of the week there is an equation there that you can make, that they make you do things that you have told them you do not want, they put you in a place where you do not want to stay, you have to obtain permission for almost anything in this country. If you get married like me - you get married to a woman who comes from Middelburg, she must obtain 20 permissions before she comes and stays with you, say, in Pretoria. All these things are tied together, there is a totality of the system.

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You see, was it part of either BPC or SASO's plan to prepare the Blacks, prepare the state of mind of the Blacks by means of propaganda so that they will then make stronger and stronger demands? --- No, it was not part of BPC or SASO plan to do that, SASO and BPC planned merely to identify the problem together with Black people to establish a commonness, and BPC in this instance

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proposes / ...

proposes to speak on behalf of Black people, and SASO proposes to speak on behalf of Black students.

To identify the problem? --- That is right.

And then, to create a dissatisfied mass? --- No, no, not at all, I have said repeatedly, Mr. Rees, that Black people are dissatisfied, they are dissatisfied at the White system, you do not need SASO, you do not need BPC to tell Black people that they are dissatisfied, because if you took a random sample, Mr. Rees, you conducted a blind survey, that is a double blind survey in which both the subject and you do not know each other, say amongst Black schoolchildren, and you say they should write about a police raid. Those children will tell you how harsh the police are, they will tell you how cruel ..(Mr. Rees intervenes) 10

How do you know? --- This is because it is an ubiquitous thing ..(Mr. Rees intervenes)

How do you know? --- I know because very Black man perceives the police in this fashion, this is how Black people interact with the police, and Black people speak about these things, and I have had my ears opened throughout my life and I know these things. 20

Now. Dr. Mokoape, do you know what you are doing now, you are generalising? --- I am not generalising ..(Mr. Rees intervenes)

You see you accused me a little while ago of generalising, now you are generalising? --- But what I am saying ought to be common knowledge.

Oh, that is different, that is different, you see you are generalising? --- No, what I am saying is that 30

you / ...

you ought to know that yourself, if I gave an essay say to a group of White student, White high school students and an essay to a group of Black high school students to write on a police raid, I am almost certain that the White students would not be able to - in the first place they would not write the same thing as the Black students wrote, and perhaps they would not even be able to write that essay because they do not experience police raids.

I want to suggest to you that you would find as many opinions as you would find people writing, whether they be Black or White? --- But you would^{not} find a different theme, you might find nuances, you might find certain emphasis somewhere, but the theme would be the same.

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You see you have been harping on the theme of the general dissatisfaction among the Blacks, is that correct? --- Quite correct.

Now aren't you and your organisation trying to channel that dissatisfaction in a particular direction? --- We are not trying to channel the dissatisfaction in a particular direction, we are trying to say: it is no use us speaking, scapegoating and saying White people treat us badly, we do not have this, we do not have rights, let us try and find a means of solving the problem ..(Mr. Rees intervenes)

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You are either channelling that or using that dissatisfaction into building support for your organisation? --- We are not using the dissatisfaction to build up support, the dissatisfaction is there, all we are saying we are trying to get Black people together so that they

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can / ...

can speak with one voice about this dissatisfaction.

In other words you were channelling the dissatisfaction? --- I think that may be an unfortunate phrase there.

Can you use a better one to describe exactly what you are doing? --- Well I have attempted, I say we are saying to Black people: we have a common problem, let us try and find a common solution.

You see immediately after that rally you felt that the State had interfered with your rights, not so? --- Which rally? The Durban Westville?

The pro Frelimo rally? --- That is correct.

You felt that they had interfered? --- Yes.

And you felt also that Blacks in general would feel that their rights would be interfered with? --- That is correct.

And you and your colleagues wanted to issue statements to put the blame on the State and on the Whites? --- Well that was for the day of the rally.

That is what you intended to do, to blame the Whites and the State for stopping ..(witness intervenes) --- We were not going to blame the Whites the banning order was issued from the Minister of Justice, and we were going to put the blame there.

That is right. And you wanted also, you say you wanted Muntu Myeza to make a statement which will have what effect? --- The effect that we deplored this state of affairs where after the government has said it recognises Frelimo and recognises that there have got to be good neighbourliness, when Black people try to ..(Mr.

Rees / ...

Rees intervenes)

No, but what was the purpose in the statements you had to make, what did you have to make it for, what reaction did you want to get from the people? --- We did not want to get a reaction from the people, we wanted to condemn the actions of the Minister.

But it is no good condemning if you do not want something to happen, you do not do something - you do not go and buy a loaf of bread and take it home unless you want to eat it..(witness intervenes) --- No, no, Mr. Rees, 10 people everywhere in party politics and especially outside party politics in South Africa condemn actions which they see as being wrong against them.

You condemn it with what object? --- With the object of bringing it into focus for the system to realise that it should not carry on in this fashion.

You are not talking only to the system, you are talking also to the Black population are you not? --- Well, yes you are talking, because if you issue a Press statement people will read it. 20

Yes, well now why do you want to reach these people with this type of comment? --- I am saying primarily you want to reach the man whom you see as having violated your rights, primarily.

All right, and secondarily? --- Well secondarily other people will read what you have issued, and they will also say: well that man is wrong.

You see I am interested in this, because you wrote after this rally, you prepared this document RALLY A.3 - just have a look at it, which I suggest gives an inkling, 30

an / ...

an insight into your thinking on this matter, you say here:

"Another page in the history of the struggle for liberation in South Africa has been opened" - now what exactly do you mean by "another page in the history of the struggle has been opened"? --- Well, let me read the document first.

Well, that is how you start off, that is your first sentence? --- But I want to read the document first.

COURT: Well he wants to see the context, Mr. Rees. 10

MR. REES: Well, look at the whole document then? ---PAUSE

Have you had a look at it? --- Yes I have.

Right, now you start off and you say -

"Another page in the history of the struggle for liberation has been opened" -

now what do you mean by that? --- Well first of all let me try and place this document for you in its context. I said here that first of all this document was a doodle.

What is a doodle, it is an expression of your thoughts is it not? --- Yes, but it is incomplete, that is the next thing I was going to say. 20

All right, what exactly is a doodle? --- A doodle is a rudimentary draft.

A draft of your ideas? --- As they take shape at a rudimentary level, but it does not necessarily represent your totally formulated ideas.

COURT: It is a scribble? --- A scribble.

MR. REES: Well, it is written in quite clear handwriting? --- Oh no, I always write in clear handwriting, a scribble does not necessarily have to be in bad handwriting. 30

After / ...

After all I would have had to read it so I would have had to make it legible.

MR. SOGGOT: INAUDIBLE

MR. REES: As your Counsel says you are a most rare doctor who writes in a clear handwriting. (LAUGHTER) Why would you have to read this thing again? --- Well as I was ..(Mr. Rees intervenes)

If it was just a scribble or a doodle? --- It was a scribble, and I was trying to write something, obviously these were ideas, I would have had to look into them as the document takes shape finally.

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Right, now Doctor, just you tell us, this was your first idea,

"Another page in the history of the struggle for liberation in South Africa has been opened" --- I think there I am referring to the fact that Black people have been handled in this arbitrary fashion when they merely wish to rejoice with the people of Mozambique, and that this is yet a manifestation of the way in which the system treats Black people.

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You see, you seem to have realised, if I understood your evidence correctly, when you organised this thing or when this thing was organised, that the police were - the government was likely to put a stop to it? --- No, no, no.

Isn't that what you said? --- No, no, no, we did not realise that the government was likely to stop this, but we thought there was an offchance that the government may ban this thing, because we know that our organisations are perpetually harassed by the government.

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But / ...

But your organisation was not harassed? --- It was harassed.

When was BPC harassed? --- BPC has always been harassed, I think the first activities of BPC were banned, many members of the BPC Executive have been banned, the offices of BPC have been periodically raided, and generally we have just been harassed by the Security Police.

Now, the Security Police, what is their function?

--- PAUSE

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Let us hear, what is their function, what is their task in the country? --- Well I cannot speak for the Security Police because I do not know exactly what are all the things they have to deal with, but in so far as we perceive it they harass Black people who try to speak on behalf of the rest of the Black community.

What is their function? -- I think as we perceive their function it is to harass Black people who try to speak on behalf of the Black community.

Is the function of the whole police force including the Security Police not to maintain law and order? --- Well I am telling you how we perceive the Security Police.

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I heard that, isn't their function to preserve law and order? --- Well they may be thinking that by harassing Black people who speak on behalf of Black people they are preserving law and order.

I still want to know, isn't their function as such to preserve law and order? --- That is I think in their minds they may be thinking that by harassing Black people..

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(Mr. / ...

(Mr. Rees intervenes)

I do not want to know in their minds, I want to know from you? --- But I have told you.

What is their primary function, or don't you know, isn't their statutory function to preserve law and order? --- Well I think their statutory function is to - amongst other things to take care of White interests, because this entire country is built on looking after White interests.

Right, and White interests is that the preservation of law and order? --- I do not know. 10

You do not know? --- No, I do not know whether it is the preservation of - PAUSE -

Do you equate White interests with the preservation of law and order in this country? --- No, in fact I do not think they are, I think law and order is being prostituted to mean the maintenance of what they see as White interests.

So you say that the function according to you of the police is to preserve White interests? --- That is as I see it. 20

All the police or just the Security Police? --- Well I am talking in this context of the Security Police.

Yes I know you were, but now I am asking you the next question, all the police - is it the function of all the police to preserve the White interests or is it to maintain law and order? --- Well the uniformed police I think their function is to preserve law and order.

Yes, and the C.I.D.? --- I do not know much about the C.I.D. I am sorry. 30

Well / ...

Well, what is their function, what do you say their function is? --- Well as I say I do not know much about the C.I.D.

Well you say the uniform police's function is to maintain law and order? --- Right.

And the Security Police, what do you say their function is? --- I say as I see it, I do not know the totality of the function in which they are involved, but as I see it amongst other things it is to harass Black people who speak on behalf of the Black community, and yesterday I think I pointed out that even a man who is working within the system like Gatsha Buthelezi is subjected to this kind of harassment. 10

Well, isn't the function of the police, wouldn't the function of the police be in any state even in your Utopian state, the function of the police would be to maintain the law and order, you cannot get away from that can you? --- Well, that is what it ought to be.

And you say it is not? --- Well I have told you what I think of the uniformed police and what I think of the Security Police. 20

You think the police in this country are not trying to maintain law and order? --- I have told you that the uniformed police are there for the maintenance of law and order, but I have told you that the Security Police as I see them are there for the harassment of Black people.

With what purpose? --- With the purpose that Black people should not have a spokesman, should not be represented, their voice should not be heard. 30

Now / ...

Now you say a representative of Chief Gatsha Buthelezi was as you put it harassed? --- Yes he was, he was travelling on a plane and when he landed at Jan Smuts he was called in for interrogation.

Because it was alleged that he had been reading communist literature? --- Because it was alleged that he had been reading communist literature, and the speech happened to be a speech of Chief Gatsha Buthelezi.

Now isn't the function of the police to find out, how will they know if an allegation is right or wrong if they don't get the man and say to him: what are you busy with. Is that harassment or is that their duty? --- Well I think the police should in the first place, I do not think the police are supposed to snoop on people. 10

Why not, how will the policeman do his duty if he does not snoop and find out and poke his nose in. How are the police supposed to do their duty? --- The police as I see it ought to get into a state where the law has been broken and to only then attempt an investigation, not to investigate by - not to have in their heads that a crime may be committed there therefore let us go and investigate. 20

All right, let us take this to its conclusion, if they see that Dr. Mokoape every evening goes for a walk along a certain path and they see at the end of the month Dr. Mokoape has got his pay in his pocket and they see some people taking up a position with clubs and a knife and it is just getting dark and they see there is Dr. Mokoape coming along, must the police now leave it until they have attacked Dr. Mokoape or must they go and do 30

something / ...

something about it? --- Well in the first place those people may not be having in mind whatsoever to attack Dr. Mokoape.

But must they wait until these people have in fact attacked Dr. Mokoape? --- What should make the police think that these people want to attack Dr. Mokoape.

I have given you the position, Dr. Mokoape walks along this road every night, it is a lonely place, and there they see people whom they know have been doing this 10 type of thing in the past, and now they see them ..(witness intervenes) --- Oh, people that they know do this.

And they now see Dr. Mokoape approaching, and they see these people getting ready to attack him, what must the police now do? --- Well if you say that the police know that these people do this kind of thing, then in that event they may stand by, but I do not think they can arrest those people for instance as a prophylactic measure, they must stand by and see what those people are going to do, because those people may just be taking a 20 walk themselves.

So they must first wait until Dr. Mokoape has had a blow over the head? --- What will they be arresting those people for suppose they arrest those people?

Just look at the matter objectively, you know what happened to Dr. Ngakane when he was walking about, that is why I take the example of a doctor, he was walking minding his own business in the night, with his pay in his pocket, and suddenly the thugs got onto him and stabbed him. Do you know Dr. Ngakane, Luthuli's son- 30 in law?

Is / ...

--- Is he in Durban?

Yes? --- I have heard of him but I do not know him personally.

Well let him show you, he will show you the big operation? --- Yes, but I do not think..(Mr. Rees intervenes)

Now if the police had intervened there, if the police had known wouldn't you have expected them to stop those people? --- No, but I think we are arguing this thing at another level, you seem to be saying that if the police see a person walking in the street and they think he is going to commit a crime they must arrest him, and I cannot agree ..(Court intervenes)

COURT: Well you see, Mr. Rees wants to show you the difficult position of the police. Now, assuming now in Botswana they knew that somebody was going to plant a letterbomb on Tiro, should they have left the matter until the letterbomb had exploded and killed Tiro before they did anything about it? --- I think that is a different proposition, M'lord, if they know that a man is going to do this thing then they can intervene, but if ..(Court intervenes)

Yes but how can they know until they have investigated the matter? --- Well I mean they may have got information that such and such a thing..(Court intervenes)

Yes, but information is unreliable, I mean even at the moment they do not know who killed Tiro, even information that they have at this stage is unreliable? --- Yes, M'lord, but I think if the police took every bit of / ...

of information that came to them, suppose somebody says so and so is a communist, and the police rush there to go and investigate and find that that man is a completely innocent man.

Well now, assuming that they find that he is a communist? --- If he is a communist then they arrest him.

Yes, but now how would they find out that he is a communist? --- Well, I think, M'lord, it is perhaps a little difficult. 10

I think what you are trying to say is that they should be very careful before they act? --- Yes, and I am also trying to say that the right of the individual, the freedom of the individual should not be interfered with on mere grounds of suspicion.

There must be some basis? --- There must be some basis, and the police in some of these instances should investigate from a distance, because if these allegations.. (Court intervenes)

Yes, but won't every case depend on the circumstances? --- Every case would depend on the circumstances. 20

I mean even the basis, you would have to investigate the basis before you know whether there is a basis or not? --- Yes, because the person who is giving that information might himself be having another motive.

He may be malicious or he may be genuine, and unless the police have a third sense they would not know whether he is malicious or serious.

MR. REES: You see, Doctor, the point I am making with you / ... 30

you is this, that you realise quite well that it is the police function to maintain law and order, and in order to do so they have got to investigate matters in which they have either information or suspicion?

--- Yes, but what I am trying to say is that the individual's right to his privacy should not be intruded into merely on the grounds of suspicion.

We are not going to go into this legal philosophy except very peripherally for this reason, if the police believe that an individual intends to induce a riot at Curries Fountain, and if that riot takes place it will result in the death of hundreds of people, is it not the duty of the police maintaining law and order to go and find out exactly what this person is busy doing?

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--- They may have that right.

Exactly, so in certain circumstances the interests of the group must come above the interests of the individual? --- In certain circumstances, it depends only on the circumstances.

But basically the rights of the individual must receive due consideration? --- Basically the right of the individual is primary.

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Now that is the point - that is why I say I do not want to canvass this issue, what I am trying to get from you is when you say that the police are harassing the Blacks, in fact every time the police execute their duty you spread the story that this is merely a harassment of the Blacks? --- Well the thing is that these things happen with such frequency that one must tend to see them in this fashion, let us take for instance cases

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(Mr. / ...

(Mr. Rees intervenes)

Let us confine ourselves to the rally? --- No, I want to take another example, take a case of a Black man who applies for a passport to go abroad for study or for anything of that nature. Now whereas a White man will merely have to fill in his form, send it to the Department of the Interior ..(Mr. Rees intervenes)

As a matter of interest the Security Police have got nothing to do with passports? --- Well, I wouldn't agree with that because I know many people who have been interviewed and seen by the Security Police with regard to applications for passports.

Yes, you see, perhaps if we get these matters clear, when I fill in a form for a passport and you fill in a form for a passport, it is the function of that department to investigate and see whether or not you or I are entitled to the passport or should have one, and if they have any doubts who does the investigating, the police, isn't that so? --- Yes, and this is the point I am trying to make that in the majority of cases in the Black community, Blacks get investigated before they can get passports.

How do you know about how many Whites are investigated? --- Because if a White man applies for a passport he gets it within a couple of days, when a Black man applies for a passport generally speaking, he gets it, if he gets it at all, in most instances he won't get it ..(Mr. Rees intervenes)

You see again you are generalising, Doctor? --- Well it is a perception which I have because I live in the

Black / ...

Black community ..(Mr. Rees intervenes)

Which newspapers do you read? --- Iardon?

Which of the White newspapers do you read? --- I read a lot of newspapers, I read - now that I live in Natal I read the dailies there in Natal.

Well, I want to make this suggestion to you, that you will find every week, complaints from people, White people, Black people, Brown people, Indians everything, people who say they are entitled to a passport and here the Minister has refused them? --- What 10 you are trying to say here is that there is no discrimination in t his country, and I cannot accept that.

I am not saying anything, I am asking you, Doctor? --- Well, that is what you are trying to suggest, there is discrimination in this country with regard to applications for passports, with regard to so many other things, I think people in Parliament have themselves said there is discrimination in this country..(Mr. Rees intervenes)

You know what politicians are? --- Yes, but they 20 are elected representatives of the Whites and they themselves are saying that Black people are discriminated against and that they want to move away from discrimination. If there were no discrimination, there would be no need for them to say that we must move away from discrimination.

I think we are going off the point..(witness intervenes) --- We are not going off the point, I am merely trying to show you that there is discrimination in Black people - I am sorry against Black people, and you 30

are / ...

are saying that if I say there is discrimination against Black people I am making a generalisation.

What I am still interested in is you say when the police are exercising their normal function, you say their purpose is to harass the Blacks? --- Let us take the instance of perhaps a pass raid, I know you know nothing about a pass raid, but let us take the instance of a pass raid..(Mr. Rees intervenes)

We are going off the point? --- No, we are not going off the point.

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COURT: I think he wants to show it works out that way. --- It works this way, I am trying to illustrate, take the instance of a pass raid..(Mr. Rees intervenes)

MR. REES: Now are the security police involved in pass raids or don't you know? --- The security police?

Yes? --- Sometimes they do ask people for passes I should imagine...(INTERVENTION.. INAUDIBLE) Let us take the instance of a pass raid, first of all the Pass Law itself is a harsh and discriminatory measure, it is an inhuman law, and from that point of view it cannot be applied inhumanly, but let us go onto the next stage where it is applied. We find the police raiding..(Mr. Rees intervenes)

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Are you using now a specific instance? --- I am generalising.

Oh, I see? --- Yes, because I have been involved in pass raids myself several times, I have seen pass raids being carried out, I have heard people talk about pass raids..(Mr. Rees intervenes)

Now what are you going to speak about, your

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experience / ...

experience or what you heard people say? --- I am speaking about the all, my experiences and the experiences of other people. People get raided in their homes at night, people get arrested..(Court intervenes)

COURT: Well now, why do they do it, is it because of influx control? --- Well it is tied up with - the Pass Law is the influx law.

Yes all right, but I mean if they go to your home it is really to see how many people are there in that home that should not be there? --- That is right, M'lord, if I had M'lord as my visitor at my home and they heard that you were there then they would come and raid in the night. If I have a visitor, if I have my brother visiting me and they hear about it they come and raid me in the night.

But isn't there a lot of crime in the townships? --- There is a lot of crime, M'lord.

Now, if there are people over which they have no control in the townships, how can they investigate that crime, unless they try and restrict - well only people who are entitled to be in the township to this township? --- Yes, M'lord, that might be the basis of thinking behind the influx control law, but again one has to look at these things in their total perspective.

How it works out, yes? --- But why is it that Black people tend to turn to crime, is this not tied to the low educational standards, and how much does the government allocate to Black education R40 for a Black child, R400 for a White child, why are Black people not

being / ...

being paid sufficiently at work, why are they being paid so little as to make them turn to crime, and all these things are intertwined. So if you say for instance that because people do not work and because people turn to crime we must institute an influx control measure, you are treating the symptom of the disease, it is symptomatic treatment, it does not go to the root cause, because these people will keep on coming.

Let us follow that up, you say because of low income people commit crime? --- That is right. 10

But the trouble is that in these townships you have a lot of people who are not working, and it is because they are not working that they do not have passes, and it is because they are not working, that is the reason why they should not be in that township? --- This is very difficult ..(Court intervenes)

Distinction? --- Not distinction - difficult problem about that question there of having the pass and working. For instance if you are not working you cannot get a pass, and if you cannot get a pass you cannot work, so it works both ways, many people find themselves unable to get passes because - PAUSE - 20

MR. REES: They cannot find a job? --- They cannot find a job, or they find themselves being unable to find a job because they cannot get a pass.

COURT: Right, now we accept that, therefore those people who are in the township should not be there, they haven't got work, they haven't got a place to stay, they are the people who steal, and then the police are responsible to 30

see / ...

see that people do not steal and ..(witness intervenes)
--- Not necessarily, M'lord, not necessarily, in fact
if one looks at these townships one will find that
many of the people who turn to crime - I would not say
most but quite a few - are people who would qualify for
jobs, people who stay in those townships, some of them
born there, but who cannot see themselves taking jobs
at the pittance of wages that are paid.

How do they live then? --- Well they turn to all
sorts of things they turn to crime. 10

Now quite, and the police will be after those
people and the only way to get them is to look for the
people without passes? --- And in so doing to cause
great commotion in the entire community amongst people
who ..(Court intervenes)

But now what do you prefer that disturbance or
the crime? --- I prefer no passes at all.

Would you rather have the crime? --- No, I do not
think it is an alternative between the two, I think that
if this country embarked on a policy, an equitable policy 20
for all people, you would not have any reason for many
people turning to crime and you would not have any
reason for many people not working, if this country
embarked on a policy of paying people equal wages for
equal jobs, then people would go and work, but let us
take my instance, M'lord, when I passed my matric I got
a job at the O.K. Bazaars for R9.25 a week, and I was a
matriculant, and boys of my age, White boys, were getting
much more, four, five times more than I was getting with
an equivalent education. My manager at the O.K.Bazaars 30

was / ...

was a gentleman who passed Standard 8, and he was manager and he was getting far far more than I was getting, and this is the kind of thing that many Black people feel they just cannot take, so a man just leaves his job and says: well, I will not work. The entire thing is so tied up, it is inexplicably intertwined with the denial of rights for Black people.

MR. REES: You see, that is very interesting, and I was going to follow all that up, but I do want to know here, you say the police motive in stopping the rally was merely to harass the Blacks? --- Well again one has to look at this thing in its context.

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I want to know what your belief is or was? --- It is tied up with the - with Parliament decreeing that there should not be a rally by Black people when Black people wanted to have a rally.

But now they decree that Whites should also not have rallies? --- Where did they do this?

You see, I am just thinking for the moment of these riots in 1922 on the mines? --- On the mines on the Rand - it is the only instance you can quote in the entire history of the country since Union where White people were in a state of commotion.

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And they were shot? --- It is the only instance you can quote but for Black people you can quote scores of such instances.

Yes, but the point is the Whites were shot there because they overstepped the mark? -- But the point is ..(Mr. Rees intervenes)

No, I am not interested whether this was the only

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instance / ...

instance, we will come to that now, the Whites were in fact shot because they brought out the army and the police and shot them? --- Yes, although there is a lot of confusion as to what exactly happened during that time.

Well the fact is that (BABY CRYING)

COURT: I think it is a convenient stage to take the adjournment. --- That is my baby! (LAUGHTER)

COURT ADJOURNS

COURT RESUMES:

AUBREY MOKOAPE, STILL UNDER OATH:

CROSS-EXAMINATION BY MR. REES CONTINUED: Now, Doctor, you people were organising this Sharpeville, did it cross your mind - I am sorry, when you were organising this pro Frelimo rally, did this ever cross your minds that it might lead to a confrontation with the police? --- No, it was not in our minds.

Not at all? --- Well we thought this was just a normal rally and that ..(Mr. Rees intervenes)

Perhaps you did not listen to the question, did you not think that it might lead to a confrontation with the police? --- I said we just thought it was going to be a normal rally.

Did you not think the police might harass you or interfere in the matter? --- Well as I said we thought that there was an offchance that this thing could be banned because of the experience that we have in our organisations.

And if it was banned and you wanted to go ahead with it nonetheless under a different name? --- Well it would / ...

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would not be us going ahead with it, it was BAWU which was going to go ahead with it.

But your deputies would be going ahead with it by whatever name you were calling it, you would be going ahead with it? --- Well BAWU is a separate body and it is not a deputy of either SASO or BPC.

But if you organise this rally and you run into difficulties and you then say: carry on BAWU please? --- No, we would not say that.

What would you say? --- BAWU had indicated that it would take over the running of this rally if there were difficulties. 10

Exactly, so they were doing it on your behalf? --- They were not doing it on our behalf, they would be doing it on their own behalf, and they would take full responsibility for it.

I do not quite understand, it is your rally, you start organising it and now the police ban you or the Minister bans your organisation from carrying on, so they carry on with the rally? --- Yes, but they are not doing it on our behalf, they are doing it as BAWU. 20

They are now doing it as BAWU? --- Correct.

But in fact the same things are going to happen at the rally as you intended should happen? --- Yes, but it is not on our behalf that they are running the rally, they may even decide to change it here and there.

Let us not quibble about words, in fact the purpose was that this rally, the rally as such would go on, that was the purpose why you negotiated with BAWU? --- The purpose was that BAWU would take over the rally. 30

Yes / ...

Yes, under what circumstances did you think what would happen, why would it be necessary for BAWU to take over? --- It was only the offchance that I talked about of this thing getting banned.

You see, when it became banned, when it was banned in fact, you people still persisted in going on with the rally? --- Well when it was banned the ideas were thrown around as to whether it is feasible for BAWU to go on with the rally, and ultimately it was seen that this would not be a feasibility. 10

Yes, you see, I suggest that you are just trying to be very clever, Doctor, you and your friends have now thought how to explain this away, you intended to go on with that rally except if there was less than a certain number of people? --- No, I think that is a misrepresentation of the truth.

You were the man who was one of the prime urgers this rally must go on? --- That is a misrepresentation of the truth.

That is why you say in the telephone conversation: "sit on, boys, sit on"? --- Well I have tried to explain the state of flux that was there before that time, and that we adopted certain contingency plans after seeing that BAWU would not carry out this rally, and that we would go and have the rally. 20

Do you still say after you have read all this evidence that the police were not justified in investigating that rally? --- Well I suppose the police were justified in investigating that rally, but if we take - let us take your argument that if the police think that / ... 30

that a crime is to be committed they will investigate that and they will take appropriate action. I find it surprising then that if the police were labouring under the belief that we intended to endanger the peace there, why they did not take steps, because they had been listening into the telephone conversations. It is surprising that the police did not approach the SASO or BPC people to investigate as to what exactly it was that we were doing.

Don't you think it was clear to the police that you people would try your very best to out-manoeuve them? --- Well if it had been that clear then the police should have taken appropriate action before that happened, instead of going there and so to say waylaying.. PAUSE -

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Yes, you see you people were trying to outsmart the police, you were trying to get the rally run under the name of BAWU so that the police shouldn't take action against you, isn't that so? --- Is it not surprising then that the police if they believed that was going to happen, why they did not see to it that they met the SASO/BPC people before this thing happened.

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What must they say to them? --- Well, investigate in their normal police fashion.

How did you people treat the police when they arrived there, with the utmost contempt, you, isn't that so? --- When they arrived where?

Anywhere where you were, you always treated the police - you called them Nazis, you called them dogs, you called them pigs, you, isn't that so? --- I am afraid you will have to point out where I did that.

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You / ...

You did it here in this Court, Doctor? --- I think that is a calumny, that is a malicious allegation.

You must be careful how you answer because you know when you made three statements when Singh left the Court, there were a number of policemen listening to you, be careful now? --- I think you are making a malicious ..(Mr. Rees intervenes)

What did you say to the police, what did you say to Major Stadler shortly after Singh left this Court, you? --- I did not say anything of that nature to Major Stadler.

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What did you say? --- Well I do not remember what I said to Major Stadler, but I do know I have spoken to Major Stadler in this Court, I have spoken to Major Stadler this very morning, I don't know where you get that impression...(Mr. Rees intervenes)

You were most abusive to him on that day, most abusive? --- I reject that, I think that is completely untrue, I think you are trying to make a malicious allegation against me.

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You must be careful, Doctor? --- I am quite careful, I think ..(Mr. Rees intervenes)

Because although I cannot prove that in this Court, I may well prove it in another Court? --- Well, that is - you can use your discretion if you so think, but I think it is - PAUSE -

I just want you to think back a little bit, we are digressing for a moment, you used most abusive terms towards Major Stadler? --- There is nothing of that nature. I have spoken to Major Stadler in this Court, I have

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spoken / ...

spoken to him this very morning in the most pleasant fashion and I do not know where the Prosecutor gets this from.

Just take your mind back to the day when Singh had finished his evidence, when you and your companions hissed Singh here, do you remember that? --- I never hissed Singh.

Didn't you, did any of your companions hiss him? --- Well I do not know, I cannot speak for them.

But you were here, you heard it, I then heard it here? --- Well, I don't remember anything. 10

And then altercation arose, that was after His Lordship had left the Bench? --- I do not remember anything of that nature.

All right. Now, you see, if the ..(witness intervenes) --- Anyway I don't think even if that were so that is justification for the police not having investigated the rally if they thought there was going to be a breach of the peace, because it seems you are trying to say that the police could not contact the SASO and BPC people because the SASO and BPC people treat them with contempt, that is the implication you are trying to make. 20

Didn't they treat them with contempt? --- I don't know anything about that.

Did you believe that the police harassed SASO and BPC? --- Yes, they were harassing SASO and BPC.

And what was your response to that? --- Well, what does a man do when he is harassed?

I want to know? --- He is harassed and police give 30

orders / ...

orders and you take the orders.

Oh, you see I noticed in one of these telephone conversations that day that the thought was expressed by one of your colleagues that he would like to see the police "shooting at us". Now what do you say to that?

MR. SOGGOT: M'lord, I wonder if my learned friend would put the passage, I dispute that that in fact is in the tapes.

COURT: What is the passage? 10

MR. REES: M'lord, I do not propose to be dictated to by my learned friend as to how I should cross-examine, but what I am putting to him is, if it should be found that one of your colleagues had stated that he would like to see the police "shooting us" when speaking about these rallies, what would you comment on that? --- First of all I would like to see that.

No, I want to know, if His Lordship should find that? --- No, I don't think I can answer to that in vacua.

You cannot? --- Not in vacua. 20

Why not? --- Because I would like to see the context in which it was used.

What would you like to see, Doctor? --- The context in which that could have been said.

Now if one of your colleagues referring to the banning of this said that "we would like to see them shooting us", what would be your comment? --- I would like to see the context in which that thing was said.

Oh, is this on the suggestion of Mr. Soggot?

--- It is not on the suggestion of Mr. Soggot, it is just 30
that / ...

that an in vacua statement like that - PAUSE -

Well, we will look at it in its context, Doctor, but you are not prepared to comment if one of your colleagues had made such a statement? --- I am not prepared to comment in vacua.

You are not prepared to comment on that statement? --- In vacua.

Doctor, you are not prepared to comment before I have shown you the whole thing, now what do you want to see? --- I would like to see - it is a statement - I would like to see the context in which it is used. 10

Now if one of the persons had said he would like see - we would like to call their bluff - is that what your organisation was busy trying to do that day? --- I would also like to see the context in which that was used.

Doctor, if one of these people had said: we would like to call the government's bluff, was that in fact what your organisation was trying to do that day, were you trying to call the government's bluff? --- I think Mr. Rees, you are making it difficult for me, in all fairness I think I must see how this particular statement is made and the context in which it is made. 20

Doctor, just answer the question please? --- I am answering the question.

Were you people that day trying to call the government's bluff? --- With regard to?

With regard to these rallies or in respect of these rallies were you trying to call the government's bluff or the police's bluff, I want to know that? --- No, I 30

do / ...

do not think one would say that is the primary aim of the rallies, the rallies had a purpose which I have indicated.

Was one of the purposes to call the government's bluff? --- I do not think that was the purpose although it might have been said, but if it has been said I would like to see it in its context.

Now, was it any part of the purpose of those rallies to induce a Sharpeville? --- By no means at all.

Was it any part of the rallies to create a situation by which you would be justified in saying that the government or the police tried to cause a Sharpeville? --- By no means at all.

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Then why did you make such statements? --- I would like to see the context in which they were used.

All right, now, we are going to show you some context. Before we come to this, what effect in your view would a Sharpeville have had on that day - when I say a Sharpeville a shooting of those Blacks on that day? --- It would have had a very sad effect.

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Yes, and what else, internationally and nationally here, what would have been the result? --- It would have been a very sad instance.

Yes, of course it would have been very sad, is that the only effect it would have had, what repercussions would it have had? --- Well in this particular instance I can speak for the Black community, I think it would have further debilitated them in their efforts to find spokesmen for this.

You see, Doctor, I think you yourself had the

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solution / ...

solution in mind here in EXHIBIT RALLY A.3, you said:

"Another page in the history for the struggle for liberation has been opened"

and that is what you were trying to do that day, to open another page in the history for the struggle in South Africa? --- I do not accept that, I do not think that ..(Mr. Rees intervenes)

That is what you said? --- No, but I never said we tried to open another page, you must read the thing correctly there it says "another page in the history for the struggle for liberation in Southern Africa has been opened, it does not say we have opened it. 10

Oh, but it became opened through your assistance? --- As I said that thing there means that here it was Black people wanted to celebrate a rally for the accession to power by the people of Mozambique, and they were put at the receiving end by the police, and the Black people did not intend any harm to anybody.

Yes, but here you say:

"The oppressed Black masses are perusing it and shall interpret it appropriately". 20

Now, if there had been a shooting that day, if the police had shot that day? --- Yes.

Now here you give the answer:

"SASO pledge ourselves, the Black oppressed, to lead them in whatever the direction they may now decide"

wouldn't that have been your purpose? --- No, I think you are taking this completely out of context. In the first place as I said this thing was a doodle. The thoughts 30

here / ...

here are incomplete and I do not know exactly in what direction the thoughts would have gone.

Now, let us just look here, would you have a look at EXHIBIT ..(Court intervenes)

COURT: Before you leave this, what do you suggest to the witness, what does this mean "another page in the history has been opened"? Well he says it was a doodle, he says it is incomplete thoughts, now what are you suggesting to the witness, what does it mean?

MR. REES: I am suggesting to you that this means that you people had on that day achieved part of your object, you have furthered your liberation cause, haven't you?
--- That is not true, that is not true.

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Now what does this sentiment mean then, tell us?
--- It just means a certain thing has occurred to Black people in the total struggle that Black people have been engaged in.

Therefore you have got another fact that you can use in your struggle for liberation? --- No, not at all.

The government have stopped us doing what we want to do --- No, not at all, it is merely deploring the fact that such a thing happened.

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If you had succeeded in achieving a confrontation you would have had exactly what you desired? --- But it was not our aim to have a confrontation, our aim was to have a celebration.

You see you have just denied that your people said that part of the purpose was to call the bluff of the government, isn't that so? --- I said it may have been mentioned in a manner of speaking by someone, but I

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would / ...

would like to see the context.

Right, now let us see if you can treat the thing in its context, I am going to refer you to EXHIBIT RALLY C page 50, have you got it? --- I have got page 50.

This is a conversation between Mr. Nat Sarachi of the Rand Daily Mail, Johannesburg and Muntu Myeza, look at page 40? --- Yes.

Now Mr. Nat Sarachi visited you people in gaol didn't he? --- I do not know Mr. Nat Sarachi.

Did he not visit you people in prison? --- He may have.

10

Did he or did he not? --- He may have, I do not know Mr. Nat Sarachi.

You don't get so many visitors that you would not know who visited you, Doctor, do you, in prison? --- We get many visitors.

Here in prison? --- Yes.

Right, so it is Mr. Nat Sarachi of the Rand Daily Mail speaking to Muntu Myeza on 24.9.74, they discuss the banning and then at page 50 we see the determination to go on with this thing, have you got it? Have you got page 50? --- Yes I have got page 50.

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Right, now in the middle of the page Muntu says:
"Now I am just wondering what is going to happen, shit, Nat, we are going to have a very big thing tomorrow"

do you see that? --- Yes, I see that.

The next passage Muntu says:

"And of course it means I'll have to go to gaol for a year or something like that.

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You'll / ...

You'll have to? They'll arrest me further for publicising this after it has been banned.

--- I see that.

That is now clearly intention by your spokesman to go on with this rally isn't it? --- I am afraid I cannot comment on this telephone call, it is such a long telephone call, I will have to go through it.

The next point is, I am not asking for your general comments, I am asking you for your comment in this particular regard? --- Well, I will have to see the thing in its context in all fairness. 10

Now you carry on and you say:

"I see. So we are just taking that come back .. ja.. nè, we'll see it to a finish"

What do those words mean, Doctor, at the top of page 51 "we'll see it to a finish", isn't that a determination to carry on with this rally? --- I do not know the "it" he is speaking about, I cannot take your word for granted that what you have said about ..(Mr. Rees intervenes)

If that means we will see this rally to a finish, what does it mean to you then - you are not prepared to comment? --- If that means that we will see this rally to a finish? 20

Yes, does that indicate a determination to see it to its finish or not? --- Well I would not know what is in the speaker's mind there, but ..(Mr. Rees intervenes)

If a man says to you: I will see this - we will see this rally to a finish, what would you understand, what is he trying to tell you? --- Well it is capable of being interpreted that the man may be saying I have 30

sufficient / ...

sufficient plans to see that this thing will go on,
it may mean that: I'll go on with it as it is.

Yes because he continues the next sentence and
he says:

"I'mmm because if we chicken out now then we are
going to be very bad"

and then he continues:

"Ja, ja, ja, so we take it to the final end"

--- Where are you reading from?

Oh, I thought you were with me, page 51, have
you got it? --- Yes, yes, I have got it. 10

Now up to there it indicates clearly a determination
to carry on with whatever he is doing, doesn't it Doctor?

--- Yes but one has got to look at this thing in its ..(Mr.
Rees intervenes)

Taking these words as they stand? --- Well if you
take this thing and of course you don't know what the man
is speaking about you can interpret it in any fashion,
but if you know what the man is speaking about, then it
becomes another matter, so that is why I say it is
difficult to comment in vacua. 20

Now just a moment, what do these words mean to
you as they stand there, does it mean that this person
is expressing a determination to carry on or doesn't it?
Read from the top of page 51 to where I have now stopped
where "we'll just take it to the final end"? --- It may
mean that he - as they stand there it may mean that he
expresses a determination, with a background knowledge it
may mean that he has got other plans about what to do
with the rally. 30

All / ...

All right, now he carries on:

"Ja, exactly.

Muntu: Mmmm you see what is .. is.. we want to see exactly, we want to call their bluff you see" - now can that mean anything other than what it says here to you as you interpret it, remember you were there on that day too? --- Where was I?

Weren't you involved in the rally? --- No, I thought you were speaking about the location, you say I was there, where was I?

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Doctor, are you trying to quibble? --- No, I am not trying to quibble, I think you should be ..(Mr. Rees intervenes)

Well then answer the question, where were you on that day? (LAUGHTER) --- You never asked me that question.

Where were you, where were you that day? --- What day?

The day of the rally? --- I was at the hospital.

And the day before the rally? --- I was at the hospital.

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Right, now, you knew what these people were trying to do didn't you? --- Not exactly.

You were involved in the preparations for this rally weren't you? --- I said that I wasn't aware to what the thoughts were at the SASO head office during those days, I only came to know exactly what is happening when they came to my rooms.

Let us now look at these words then you tell us further, you see here the man says:

"So we will take it to its final end"

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In / ...

In the context of what you have read from the top of page 51 that shows a clear determination to carry on with what he is doing doesn't it? --- As I say it may indicate that the man has certain plans which he is going to carry out.

To the final end? --- Yes, but it may indicate the thing in a different form.

Yes:

"Mmmm to see what is..is.. we want to see exactly we want to call their bluff you see. 10

I beg yours?

I say we want to call their bluff, they must come out clearly their true colours"

Surely you haven't got any difficulty in interpreting those words as they stand, Doctor? --- One has got to look at this thing in its entirety.

Have you got any difficulty in interpreting those words as they stand? --- Well as they stand without having read the telephone conversation in toto, I think it just means "we want to see their true colours", as 20 they stand there.

Yes, you see I can appreciate your reluctance to commit your fellow accused..(witness intervenes) --- There is no reluctance whatsoever, I do not even know when this telephone call was made because I have not read the entire telephone call, I do not know ..(Mr. Rees intervenes)

It does not matter, Doctor? --- It matters.

I want you to comment on these words as they stand? --- I think it does matter because right now you are asking me: where were you on that day, and I hardly know 30

when / ...

when this telephone call was made.

Doctor, I am asking you now for your comment on these words as they stand here on this particular page, do you understand, what they mean to you? --- Yes, but I want to point to you my difficulty of interpreting them in vacua.

Doctor, I appreciate all that, and His Lordship will appreciate all that as well, you understand, but I want you to give the Court your interpretation of these words as if they are the only words you hear and the only words that are available, do you understand? --- Yes.

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Right, now it is in that context that I want you - now the man is here saying quite clearly that he wants to call somebody's bluff and he wants to see this person come out in his true colours, isn't that so, what it means? --- Yes, it is an idiomatic expression there.

And then he says "we want to see them shooting us", now what else can that mean but that "we want to see them shooting us", you tell us, in that context. Here the man says we are going to see it to the finish, we want to call their bluff, we want to see their true colours, we want to see them shooting us". Now what does this mean other than what it says? --- Well, I think it could mean that we want to see what they are going to do, because I do not want - although I was not in the man's mind and I would not know exactly what he meant, I cannot imagine that he wanted to be shot at, I cannot imagine that he wanted to die, so this could be an idiomatic way of saying we want to see what they will do, and that would read well with "we want to call their bluff" as I see it

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in / ...

in this page alone, we want to call their bluff, we want to see what they will do.

Yes, and you also were speaking of Sharpeville on that day, your thoughts were running on Sharpeville and Sharpeville was where they were shooting at the Blacks? --- I was not there on that day.

You also were speaking of Sharpeville weren't you? --- When?

In connection with this organisation of the rally? --- No, I spoke of Sharpeville on the Wednesday when these people came to my room. 10

What day was this? --- I do not know, I have not looked at this telephone call, I don't know when it was made.

Does it matter? --- It matters because there was a state of flux before the Wednesday..(Mr. Rees intervenes)

The point I am making is that in connection with this rally you were also speaking about Sharpeville?

--- It was on the Wednesday when the people came to my rooms. 20

Just listen to what I am asking you, in connection with this rally you were also speaking about Sharpeville where a shooting had occurred? --- I think we know that I made that statement on the Wednesday and I think we should pin it down to that time, I don't think we should just say..(Mr. Rees intervenes)

Why is the time important to you, Doctor? --- Because it is the time when it was made.

Why is that important? --- It is important because that is the time this decision was being taken as to 30

what / ...

what should be done about the rally.

Now you see it is in that connection that I asked you to explain what you meant in EXHIBIT RALLY A.3 when you said: "another page in the history for the struggle for liberation in South Africa has been opened. The oppressed Black masses are perusing and shall interpret it appropriately. We of the Black People's Convention and SASO pledge ourselves to Black oppressed to lead them in whatever direction they may now decide", and I want to put it to you that if there had been a shooting on that day it would have led to tremendous repercussions would it not? --- I do not know. 10

It would have led to Black people being ready to revolt, would it not? --- That is a rather farfetched .. (Mr. Rees intervenes)

I am asking you? --- No, it is farfetched, I do not accept it, because Black people have been shot before and they have never revolted, I don't see why you should say in this particular instance they would have revolted.

All right - I am referring to BPC A.3: 20

"Black people have again been placed at the receiving end of a merciless and sadistic response operating under the guise of law and order"

What was this merciless and sadistic response that day? You see, more and more I am beginning to get the impression that you wrote this thing before the rally took place in conjunction with Muntu Myeza and not afterwards? --- That would be very untrue indeed because this thing was written - I think if one reads this thing one can see that it refers to the past tense all the time. 30

It / ...

It was written after the rally had - it was written after the incident at ..(Mr. Rees intervenes)

This is for determination afterwards ..(witness intervenes) --- ... at the Curries Fountain grounds.

This thing was written for determination afterwards yes? --- It was written after the incident at Curries Fountain, I think we should get that very clear, it talks about a past event which has occurred.

Well you could not very well have written it in the future tense could you, it would not have fitted? --- Well I couldn't have written it in the future tense because I was writing about something that has already occurred.

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Now you say:

"Black people have again been placed at the receiving end of a merciless and sadistic response operating under the guise of law and order"

- just explain that? --- PAUSE

What exactly does that passage mean, what was the merciless and sadistic response that they were subjected to? --- Well this entire thing here is tied up again with the authoritarian fashion in which the government takes Black efforts.

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Doctor, I want you to specifically deal with this matter here and not generalise? --- I am dealing with this specific ..(Mr. Rees intervenes)

You say:

"Black people have again been placed at the receiving end of a merciless and sadistic response"

you say "have again been placed at the receiving end of a

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merciless / ...

merciless and sadistic response, you are referring to a specific incident, now exactly what does this refer to? --- I am speaking about the entire episode of the rally, and I am here trying to portray the fact that the system tends to be so authoritarian against Black efforts.

What was merciless about it and what was the sadistic response? --- It was merciless from the point of view that Black people were trying to celebrate, Black people were trying to be happy, and that happiness was being snuffed by this banning order, it was being sort of taken out of them, the happiness that they wished to express with the coming into power of ..(Mr. Rees intervenes) 10

What do you mean "under the guise of law and order", do you mean they were pretending to maintain law and order? --- Well this is how I perceived it, because there was nothing whatsoever in this rally that merited that response from the system.

Now after you have read these words here do you still say that, the words we have just dealt with on page 51, do you still say that? --- Well those words there on page 51 I told you I cannot comment on them in vacua, I will have to read the whole telephone call, because it is a telephone call, first of all in a telephone call people do not say everything that they want to say because of the shortness of time, and I have got to see how he develops his theme and so on. 20

Now what type of message did you envisage would these Frelimo speakers have brought to this rally? 30

What / ...

What could they possibly have come to say to you? If you have not thought about it say so? --- Well I have not thought about it specifically but I would imagine that they would speak about their happiness at having achieved liberation in Mozambique.

Yes, they would have had to give you an idea of their organisation, they would have had to tell you how they grew from grass roots? --- Not necessarily.

What has their happiness got to do with South Africa? What is the connection? --- Their happiness has got everything to do with South Africa. 10

Well then tell us? --- Mozambique is a neighbouring country, what happens in Mozambique must ipso facto affect what happens in ..(Mr. Rees intervenes)

How? --- ... in South Africa.

What has happened in Mozambique? --- What has happened in Mozambique is that Portugal was there as a colonial power ruling over the Mozambique people, and the people of Mozambique had fought against this colonialism in various forms, and ultimately Portugal handed over power to the people of Mozambique in 1974. 20

Now what is the analogous situation with South Africa? --- The analogous situation in South Africa is that in South Africa the majority of the people are denied the right to power.

Yes? -- And that those who are denied power, Black people in this country, have from time immemorial been putting their case for their inclusion in the power structure.

What is the difference between how Frelimo put their / ... 30

their case, and how South African Blacks have in the past put their case as you suggest, what is the basic difference? --- Well initially in the struggle in Mozambique Frelimo had taken up arms and they had fought, there came a stage when there was a change of government in Portugal, and the people in Portugal felt that the people of Mozambique had the right to govern themselves, and so there was a cease-fire and negotiations were entered into and the government of Portugal handed over to the government of Mozambique.

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Yes, so the point was that there was a successful armed struggle in Mozambique? --- That is not true there.

Wasn't there a successful armed struggle? --- No, the people of Portugal felt that the people of Mozambique had the right to self-determination.

After there had been an armed struggle? --- Yes, but it does not follow that it was the armed struggle that made the people of Mozambique - of Portugal feel like that, there was a change of government, a change of ..(Mr. Rees intervenes)

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What is now analogous to the situation between the situation in Mozambique and South Africa? --- I have told you what the analogy is, I said that power was in the hands of a few in Mozambique who in that case were colonialists, and here power is in the hands of a few people in this country, and that those who are excluded from power in Mozambique, in South Africa, everywhere in the world, they tend to put their case against that kind of system.

Yes, now that case has initially been put by means

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of / ...

of the gun, isn't that so? --- Not necessarily, there are so many struggles all over the world ..(Mr. Rees intervenes)

No, we are talking about the Frelimo one that you were celebrating? --- Yes, Frelimo put the case initially by the gun.

And that struggle eventually led to their getting power, that is what you were celebrating? --- No what happened in Mozambique was that the Portuguese people, there was a change of government in Portugal, the Portuguese people entered negotiations with the people of Mozambique and they handed power to them, Frelimo did not march into Lourenco Marques.

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The Portuguese marched out? --- The Portuguese handed over power to the people of Mozambique.

All right, Doctor, we want to get another aspect of your evidence - PAUSE - we are going now onto these Sharpeville commemoration meetings. Would you have a look at SASO B.1 and BPC E.4, have you got them, Doctor? --- Yes, M'lord, just before we proceed with these documents here, I noticed yesterday that we are using that copy of SASO B.1 which ^{has} not been correct, because I do have and I think the State has a copy which has been finally corrected by me and Captain Wellman and this is not the copy that we are using, the corrected copy does not have all these dotted lines and so on, it contains almost everything, so I think that will assist us then we can see things in their context.

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Well when we get to that, I do not know where the corrected copy is? --- My copy of SASO B.1 is a

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corrected / ...

corrected copy, but this one here is not.

Have you got one with a lot of notes in? --- I think I have got one in my file, I do not think it has any notes.

You can use Mr. Soggot's if the Court has no objection - now, Doctor, dealing with these two, the other one is BPC E.4, we have now dealt in some depth with the two of them, now firstly let us get a few things clear. BPC E.4, this was a transcript of the statements made at Kajee Hall on 21.3.1973, is that correct? --- It purports to be. 10

Now this document also figures in the trial in which you and Harry Singh appeared, isn't that so, before the Magistrate? --- That is correct, although not exactly as it is, in a different form.

Now in respect of this document the Defence also submitted to the Court their version at that trial, is that not so? --- I think I remember it being so.

And the Court eventually also listened and even on appeal they listened to the matter, and they accepted this as being the correct version, isn't that so? 20
--- Well I do not know about the Appeal Court, but I know that the Magistrate did.

Accepted this? --- Yes.

Then also you were then given an opportunity of going through this with Captain du Toit, is that so?
--- During that trial?

During this trial? --- Yes, I have gone through it with Captain du Toit.

And you went through it as many times as you liked, 30
as / ...

as a matter of fact they made you a copy of the recording, is that not so? --- Well I went through it as many times as time permitted.

And you see I want to just get this clear...

INAUDIBLE - AWAY FROM MICROPHONE --- Correct.

Now I just want to refer to get the matter in its context to Captain du Toit's evidence in this Court at page 2557. There he said in re-examination, the question was:

"Ek wil jou vra om na BPC E.4 te verwys, met verwysing na die tweede paragraaf op die eerste bladsy? - Ek het dit, dit lees: 10

'Brothers and sisters, we haven't come here to mourn the death of these people, we haven't come here to regret the steps they took, but we have come here to say: we pledge ourselves to follow closely and intimately in those steps that they have taken, we have come here to declare ourselves that we are prepared to lay our heads on the block" 20

Nou is u nadat u na dié ding geluister het oortuig van die juistheid van daardie afdeling soos u dit daar geskryf het? -- Ek is.

Het die Verdediging waarby beskuldigde No.4 betrokke was in the vorige saak, dit is die saak in Natal, ook hulle weergawe van die band aan die Hof voorgelê? -- Hulle het"

You understand Afrikaans do you not? --- Well I think I am following.

Well don't you understand it, didn't you grow up 30

in / ...

in the Transvaal? --- I understand but not all the way because it is not a very easy language, but I am following.

"En die gedeelte wat ek vir u nou gelees het, sal u net kyk na die afskrif van die rekord en vir die Hof sê of die Verdediging op daardie stadium enige van hierdie woorde wat ek nou vir u gelees het betwis het of nie?

And he says:

"Net in die lyn die woord "regret" het hulle as "redress" met "regret" in hakies".

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Now do you understand what he says there? --- Yes.

He says your only complaint was against this word "regret", if you look at BPC E.4? --- Yes.

"Het hulle "redress" met "regret" in hakies en en dan "we pledge" net daarna het hulle "place" in hakies "ourselves". Dit is die enigste verskil tot en met die woord "block" -

the fifth line from the top of that paragraph:

"Dan is daar 7 sekondes en dan volg die paragraaf:

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'We are prepared to have our blood spilled just as much as the blood of our brothers spilled at Sharpeville, at Langa, at Bulhoek, at Bondelswarts and at countless other places in this country, in the liberation movement'.

He was then asked:

"Is u tevrede dat soos daardie woorde daar weergegee word die woorde is wat op die band voorkom? -- Dit is so. Die sewe sekondes na die woord "block" daar word gepraat maar daar is baie geraas en

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word / ...

word dit onduidelik, maar vanaf die woord 'we are prepared' tot by 'movement' is ek oortuig dat dit is wat gesê is.

Is enige gedeelte van daardie sin deur die Verdediging in the Natalse saak aangeval?

He said: Net die gedeelte na die sewe sekondes 'we are prepared to have our blood spilled'.

Wat het hulle aangevoer in verband daarmee?

- Volgens hulle transkripsie is dit net dotjies, en as ek reg onthou het hulle voorgegee dat hulle niks kon uitmaak daar nie. 10

Nou gister of eergister toe u en beskuldigdes die saak deurgegaan het, wat het hulle toe voorgegee?

-- In verband met daardie besondere paar woorde het hulle gesê dit is dieselfde woorde 'we are prepared to have our blood spilled' het hulle voorgegee hulle kon niks hoor nie".

Now, that is the essence of du Toit's evidence on this point, and he is quite clear that these words are audible, so that this passage reads: 20

"Brothers and sisters, we haven't come here to mourn the death of these people, we haven't come here to regret or redress the steps they took, but we have come here to say, 'We pledge ourselves to follow closely and intimately in those steps that they have taken, we have come here to declare ourselves that we are prepared to lay our heads on the block - 7 seconds gap - We are prepared to have our blood spilled just as much as the blood of our brothers spilled at 30

Sharpeville / ...

Sharpeville, at Langa, at Bulhoek, at Bondelswarts and at countless other places in this country, in the liberation movement'. Brothers and sisters, white people in this country have displayed amply their willingness at any time murder and kill Black people at each time when we register our vote of no. Every time we call out in protest, they run for their guns. Every time our leaders stand up to speak for us, they lock them in Robben Island. Every time our fathers and mothers call out and stand up and say, 'We want a living wage', they bring out their saracens, their camouflaged soldiers to come and intimidate them".

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Doctor, were those in fact the sentiments expressed by you at this meeting? --- Well I have indicated what is my difficulty with the transcript, and that it is a transcript - the tape is of poor quality, and it is incoherent. However, when one listens with Mr. du Toit's transcript in front of him, one can hear those words that are in the transcript. When one listens all on his own, one can replace almost any other word on the transcript.

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Doctor, when you were making this speech here what was your purpose - you were the chairman of that meeting weren't you? --- I was the chairman of that meeting.

And what was your purpose? --- Well I would not remember exactly but I would say my purpose was to call to mind this incident of Sharpeville, and to say that we

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Black / ...

Black people deplore this kind of thing. To indicate that the liberation struggle still has to be carried on because until Black people are accepted in the power structure in this country, the liberation struggle must go on, and that in this context we must all be prepared to serve, to sacrifice and to suffer, and that we should draw inspiration from those people who passed away at Sharpeville and at other places of that nature, where such things have occurred. That would be the gist of what I was saying. 10

Yes, you see, this sounds typical of your type of wording:

"We have gathered here today to commemorate our brothers and sisters who were murdered cowardly by the heavy fire-power of the White man" - now that is in accordance with your usual approach is it not upon this subject, that the people were killed there by the heavy fire-power of the White man, they were murdered? --- You mean that is my vocabulary?

Yes? --- Well I don't know I think anybody else can use that type of vocabulary, but ..(Mr. Rees intervenes) 20

I am just talking about yours? --- Well I use different vocabulary on different occasions.

Is this your type of talking? --- Well I could have used those words.

The other sentiment that you expressed here in the second paragraph, is that you haven't come here to mourn the death of the people, you have come here - and you haven't come here to regret the steps they took, you 30

have / ...

have come here to pledge yourself to follow closely and intimately in those steps. That is a sentiment which you express and which you hold, isn't that so? --- Well as I say I don't know what the exact words are but the sentiment would be that those people who died at Sharpeville died in the liberation struggle for Black people. Black people who are alive now are still beckoned by that goal, that ideal which is freedom, and that Black people must march on along this road towards freedom.

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Yes, and if that involves spilling blood, must they be prepared to do so? --- The liberation struggle everywhere sometimes tends to involve people being victimised by way of blood being spilled.

And is your point of view that they must be prepared to have their blood spilled? --- The point I am making there is that they must be prepared to suffer.

But the words you use is that they must be prepared to have their blood spilled like it was spilled at Sharpeville? --- Well I would not go by the exact words that I used there again, but in my mind I would have had the idea that Black people in this country must be prepared to suffer as they carry this burden of liberation, as they walk towards the ideal of liberation.

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The picture you paint there is here are people who have had their blood spilled, you people must be prepared to do likewise, isn't that so? --- Well, I wouldn't go by the exact words, it is so difficult to do so, there are empty spaces here and so on and I don't

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know / ...

know what exactly the words are that I used, but the sentiment I would have wanted to express is what I am telling you now.

You see at Sharpeville the people did not go there with the intention of having their own blood spilled did they? --- No, they did not go there with the intention of having their blood spilled.

But where you have a confrontation there is always the possibility that blood would be spilled, isn't that so, Doctor? --- Not necessarily. 10

I said there is the possibility? --- It depends what form that confrontation takes.

That is what I am saying, when you have a confrontation like the one that happened at Sharpeville there is a likelihood that blood may be spilled? --- I would not say likelihood there is a possibility.

There is a possibility. Now when you have a situation as could have arisen with the rally where the people are demanding their rights and the police are as you say harassing them, there is a possibility that blood could be spilled there isn't there? To put it at its highest? --- Well I wouldn't say there was any possibility that blood could be spilled at a function like that rally which was organised, I think that the plans that we had taken were sufficient to ensure that such a thing would not happen. Of course we did realise that if the people were there on their own and there wasn't anyone to take control of that crowd then you may have that possibility. 20

Well will you just explain that to us please, 30

how / ...

how could the thing then get out of hand if there was not somebody to take control, how would your control affect the position? --- Well in that if people are gathered and there isn't any head, there isn't anybody to direct them, there is always the possibility that there may be a clash between one and one policeman - I think everywhere where people are gathered there is always a possibility that such a thing can occur, everywhere, it may be a football match, it may be anything.

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In a situation like this, Doctor, like these rallies, surely it must be patent to you that if there is a clash between one man and a policeman that feelings are going to become inflamed tremendously? --- Not necessarily.

No, I know not necessarily, but the likelihood is there? --- No, no, no, not as a likelihood at all.

Oh? --- Not as a likelihood at all, it may happen that there is a clash between a particular person in the crowd with a policeman, depending on the ability of that policeman, his desire, he may be able to calm down that man, he may be able to calm down the crowd, he may even be able to arrest that man without incurring the wrath of the rest of the members of that crowd.

20

Is that likely to happen if he incurs the wrath of the crowd? --- Well they may get intimidated.

Yes, and if they are not intimidated? --- They may riot.

They may riot yes, that is a possibility in a position like that? --- It is a possibility, I have

30

conceded / ...

conceded that it is a possibility where people are gathered and there are police, there is always the possibility that something of this nature can occur.

And between SASO and BPC and the police there is a strong feeling against the police by the organisation, is there not? --- I do not know where you get this from, Mr. Rees, I have asked you to point out to me directly, this morning you said that I had sworn and used certain words against the police, and I don't know where you get it from, because ..(Mr. Rees intervenes)

10

You said just now that your conception of the police was that they were out to harass you, and to harass your organisation? --- I was speaking of the Security Police.

Oh, what about if the police came and harassed you there, your organisation did not like the Security Police did they, you don't like somebody who harasses you? --- Well, it was not as if we did not like them, but we had to live with this kind of thing, it is something you have to live with, you have to take it in your stride, and you cannot be flipping over your lid every day you see the Security Police.

20

And what happened the day you were arrested for instance, wasn't there an incident? --- The day I was arrested, I was assaulted by Captain du Toit.

Why, what did you do? --- Because he said he thought - I thought I was a clever Kaffir, and presumably he assaulted me because I had indicated that I am clever or he thought that I had indicated that I am clever.

30

And / ...

And did he assault you there in front of the people? --- He assaulted me in front of people, at the hospital.

In front of the public? --- Yes in front of my colleagues, nurses and other people who work in the hospital.

There must have been something done by you? --- I did not do anything to cause him to do this to me.

You see, I cannot understand how a man would assault you right in front of people if he has not been severely provoked? --- I cannot understand that myself. 10

You must have provoked him? --- I did not provoke him.

That is if there is any truth in what you say? --- I did not provoke him at all, he took me from my ward where I was working, and I was walking along with someone who had been with me and I was talking to the gentleman and Captain du Toit accosted me.

Then you tried to hand over these documents did you not, hand them over to this other party? --- No, that is not true that did not occur there. When I handed over my personal belongings to the other gentleman I was with I was up in the ward and I handed him over my personal documents, the assault did not occur there. Of course that may have been the thing that provoked Captain du Toit, I don't know, but the assault occurred in the grounds of the hospital. 20

So you see if your version is correct there is always the possibility of a clash between your people and 30

the / ...

the Security Police? --- But the people there who were with me in this incident did not riot, they just disliked it and they saw that this was a policeman and - Black people are afraid of policemen.

That is an entirely different situation, Doctor, to where you have got thousands of people gathered together on an emotional situation as would have been at Curries Fountain? --- There was nothing emotional about ..(Mr. Rees intervenes)

At Curries Fountain? --- I do not see what should have been emotional about that. I think we have just seen the film here, we have seen that the people there were happy, the people were singing.

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Oh, your whole purpose was to bring to the notice of the people how effective Frelimo had been? --- That is incorrect, that is absolutely incorrect.

All right. Now in this same document - at least let us just get back to a few basics again, I just wanted to compare, this is BPC E.4 and SASO B.1 and compare the people present? --- People present?

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Now, Sewpersadh was a speaker at both the meetings was he not? --- That is correct.

You were a speaker at both the meetings were you not? --- Yes, I spoke at the SASO B.1 meeting although I was not a speaker there I just made a short impromptu talk.

Singh was there in the place of Accused No.1 is that not so? --- Where now?

At the 1973 one, that is BPC E.4? --- Where do you obtain that from, Mr. Rees?

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Well / ...

Well, have a look, wasn't Singh there? --- Singh was there but where do you obtain it from that he was in the place of No.1?

Well I am asking you? --- No, he was not, he was there as a speaker.

Hadn't No.1 been there on the previous occasion? --- Which previous occasion?

We are talking about the occasion 1972 - we are talking about the two items, 1972 and 1973, Sharpeville commemoration meetings? --- Right. 10

Now in 1972 No.1 was there? --- At the ATR?

Whatever that may mean? --- Alan Taylor residence?

That is right? --- Yes, No.1 was there.

And in 1973 Harry Singh was there? -- Yes, but he was not replacing No.1, and I do not see why you should say he was replacing anybody because ..(Mr. Rees intervenes)

I am not saying anything, I am asking you? --- But you did indicate that Singh was there replacing No.1.

It is for you to correct me? --- No, he was not at all. 20

Now, who organised this meeting of 1973? --- At Kajee Hall?

Yes? --- Well I was invited there by Mr. Colin Jeffrey who was ..(Mr. Rees intervenes)

Who organised the meeting? --- He organised it.

What if anything did Accused No.1 have to do with it or don't you know? --- I don't know any role that he played, I have no personal knowledge.

What did they say to you when you were invited? Why were you to come and speak? --- Well they merely 30

asked / ...

asked me to come and chair their meeting.

Well why shouldn't they get a member of their own committee, why didn't they do it, the National Executive or something like that, why you, you are just an outsider? --- No, I came from another branch, and branches do invite members from other branches to come and participate.

What branch's meeting was this then? --- Durban Central.

And was that the one of which Accused No.1 was a member? --- Yes Accused No.1 was a member of this before he was banned. 10

But he remained a member not so? --- I have no knowledge of that.

Did he not remain active in BPC affairs after he was restricted? --- I have no knowledge of that.

No, but I am asking you? --- I have no knowledge of that.

Did he not participate in BPC affairs after he was restricted, didn't you and he have talks afterwards about BPC affairs? --- No, I have no knowledge of that. 20

What about the rally? --- He participated in the rally, yes.

Yes, what about Singh's visit overseas? --- Well I know that he came to my place with Singh when Singh was to go abroad.

So you know that he participated in BPC affairs after he was restricted? --- Well, I do not know whether you call that participating in BPC affairs really.

Well, Doctor, to send a man overseas to go and collect / ... 30

collect money for an organisation isn't that participating in the affairs of the organisation? --- Well I did not know that - I did not get the impression that he was sending Singh to go abroad, I got the impression that Singh was going abroad on behalf of the Executive.

But what did Accused No.1 want to bring Singh to you for then, couldn't Singh come under his own steam? --- Well they lived around the same area and all that and Singh had a motor car.

Yes, well, why does No.1 come along? You see that is the point I am trying to make with you? --- Well, I don't know why a man would accompany another, I do not think there is anything that can be read into that. Obviously he retained an interest in the movement, I retained an interest in the movement, and many banned people continued to have interests in their movements. I do not think one can say that they specifically participate in the running of ..(Mr. Rees intervenes)

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No, but again when they came back, they came back to you again, when Singh came back, both of them went to you again? --- Yes it was in the context of my having spoken to Singh about his overseas trip.

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And when they had a dispute on the morning of the rally when Singh and No.5 is it did not want to go on, again the group went to you with Accused No.1 among them? --- I think you are taking things out of context there.

Well, what is the context? --- First of all there was - they had a state of flux about the rally, and I had my flat at the hospital which was a - PAUSE -

30

The / ...

The point is they went to you? --- Yes.

Whether your flat was there or whether they had the rally or not? --- No, but the point is that it was a convenient place for them to meet.

Why could they not meet at the SASO office? --- Because they were being hounded by the Press.

Why could they not keep the Press out? Why could they not go to BAWU office? --- They were hounded by the Press all around that area.

Why could they not go to the BPC office? --- BPC to my knowledge has no office in Durban.

All right, so they went to your place? --- They came to my place.

You say because they were hounded by the Press? --- They were being hounded by the Press.

What does that mean, the Press wanted statements from them? --- Yes, the Press wanted statements, interviews and generally to speak to them and so on.

So they came to you. What did they come to you for? --- They came to use my flat and I think also because of the state of flux which was there, they needed another mind to look into.

To advise them on what to do? --- Not to advise them but to opine.

To what? --- To give an opinion.

Well what is the good of an opinion? --- An opinion gets thrown in the melting pot and ideas get formulated.

How does an opinion differ from advice, tell us?

--- PAUSE - I think an opinion is where people throw in their / ...

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their ideas if there is a group of them, and from there a course of action comes about, ideas get formulated. An advice is something which is given by someone who may be of superior status and it tends to be followed, I think in terms of gradation an advice is bigger than an opinion. I think so.

Doctor, would I be correct to say that the theme of the speeches delivered at the Sharpeville commemoration meeting in 1973 was basically the same as the theme of the one that you attended and participated in the previous year? --- Yes I think the theme was the same in that it was to point out to Black people that they wanted to carry this struggle forth, and willing to honour our heroes, our struggle has got a lot of heroes, and that we should be prepared to go on.

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Doctor, would you say this statement is right or wrong with reference to this meeting that occurred at your quarters on the day of the rally:

"We went over to discuss the having or not having of the rally at the hospital where Dr. Mokoape worked" -

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did they come over to discuss having or not having the rally with you? --- No my impression, the impression I got when they got to my place was that already there was a strong mood for not going on with the rally.

That was part of what they wanted to discuss with you? --- Yes, they wanted to discuss, they wanted to finalise as to what exactly to do.

Yes. Then:

"Dr. Mokoape instructed another individual, that is / ...

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is China, to position himself very near Curries Fountain from 4.30 that afternoon, and if there was a huge crowd he was to phone SASO offices where we were to wait" -

yes, he was to phone SASO offices, would that be correct?

--- That is incorrect, I could not ever have instructed Dr. Motsipa, Dr. Motsipa is a colleague of mine.

What is wrong with that statement? --- It is wrong because I could not have ..(Mr. Rees intervenes)

Well just tell the Court what is wrong, I do not want to know your reasons, I want to know what is wrong?

--- I did not instruct Dr. Motsipa.

What are the facts? --- The facts are that Dr. Motsipa was present in this meeting, and he volunteered to pass over this information to me.

All right, let us get it clear then, he volunteered to position himself near Curries Fountain from about 4.30 that afternoon, and if there was a huge crowd he would phone the information back, is that correct? --- He did not volunteer to position himself, he volunteered to go to Curries Fountain, and if there were people to let the people at SASO know, there was no question of his standing there like a sentry, Dr. Motsipa would never do such a thing.

Doctor, I think you are just quibbling? --- I am not quibbling.

The question is that this man said he would go there and he would look and he would phone back? --- Yes.

How you are playing ^{with} the question of "he positions himself" etcetera, I will tell you why you are

playing / ...

playing with that ..(witness intervenes) --- No, I am not quibbling it is that I have to point out the incorrect words. What you are reading there in the first place is that "I instructed", and in the second place it says that "he was to position himself", I must point out that that is wrong.

Isn't that just a manner of speaking, Doctor?

--- That is a wrong manner of speaking.

In order to find out he must position himself, he must go there and if you go to a place you position yourself there? --- You do not position yourself, that is military language. 10

Why are you so particular about the use of language now, are you trying to get exact meanings over to the Court? --- No, I am trying to discuss a situation which occurred.

Are you always so particular, Doctor? --- Well I am trying to relate a situation which occurred..(Mr. Rees intervenes)

Are you always so particular, please listen to what I ask you, are you always so particular in trying to get your meaning across? --- I attempt to be. 20

That is all I want to know. Now when China went there in fact he was going to be your outpost not so, he was going to be your listening device? --- No.

He was going to be your eyes and ears, wasn't he? --- Well we are quibbling really, he was not going to be any of those things, he was just going to see if there were people and to inform the people.

Right, now he was going to see on your behalf? 30

Well / ...

--- Well on behalf of Muntu Myeza.

Yes, and he was going to report to him? --- Well to telephone the message either to Muntu or to anyone that he found there.

You see I suggest you are quibbling here, because your Counsel put on page 847, at the bottom of the page, line 30, to Singh: (This was put by Mr. Allaway)

"So I suggest that your reference to a man called China sitting as a sort of outpost is a figment of your imagination" -

that was not correct was it? --- Well I think again in the way it is put there, I would say it is not correct to say China went there as an outpost, as a sentry, because he did not.

What did he go there as? --- He went merely to see if there were people and to report to Muntu.

All right what was the thrust of Singh's evidence, the thrust of Singh's evidence was that this man had gone there to report, isn't that so? --- Well I did not check the evidence in detail there, but I got the impression that Harry Singh was saying we had a sentry there standing - PAUSE -

Doctor, whichever words he used the thrust and effect of it was that you people sent a man there or a man went on your behalf and to report back? --- Yes, but the words are important, Mr. Rees, the words that he used, especially with the background that Harry Singh had been leading evidence to say that we were sort of planning a military situation there of confrontation.

Now, Doctor, you people then attacked him with

virtually / ...

virtually a half-truth, you did not concede here that the man had gone had you? --- Well I do not know exactly what was said there, but all that needed to be said was known by our Counsel.

This was a point on which Harry Singh's evidence stood alone until we produced the tape? --- Well I do not know about that, but all I can say is that all that needed to be said on my behalf is in my Counsel's hands and ..(Mr. Rees intervenes)

No attempt was ever made by anybody to correct this attack on Harry Singh? --- I am not defending this case, Mr. Rees. 10

You are the man who instructs your Counsel? --- And all that - I am not Defence Counsel - all that needs to be said on my behalf is in my Counsel's hands.

Are you suggesting that your Counsel knew all along that you agreed with Harry Singh that this man China had gone out there to report back, is that what you are suggesting? --- My Counsel knew that from that meeting Dr. China Motsipa had volunteered to go and give information for ..(Mr. Rees intervenes) 20

I am putting to you he knew all along before I put the tapes in? --- Yes, he knew all along, my Counsel.

Yes, but when you had interviews on these things you interviewed all the Counsel together did you not? --- Not necessarily.

But this was a matter which affected all you people and you had your interviews together? --- No, we did not have our interviews together all the time, we had very few..(Mr. Rees intervenes) 30

But / ...

But you heard the attack on Harry Singh here on his credibility, and you did nothing to correct it? --- Well I had lots of things on Harry Singh, there have been so many things ..(Mr. Rees intervenes)

Did you hear lots of unfounded things? --- Well I would not say - there are so many things that have been said ..(Mr. Rees intervenes)

But you and your co-accused were very adroit in sending notes to your Counsel, sending notes to your Counsel, whenever they put something which was not exactly as you wanted it, up came the notes, isn't that so, you called over the attorneys - I just want to know whether that is so or not? --- This case has concerned so many things, and I ..(Mr. Rees intervenes)

Doctor, just answer this question? --- An attempt was made to keep Counsel appraised of the issues all the time, but there are so many things in this case one cannot - PAUSE -

Here was a serious attack on the credibility of a State witness at a stage - at a stage when it must have appeared to everybody that his evidence would stand alone? --- That is a matter for Counsel to decide, what and how he puts the questions.

I am suggesting that you people instructed Mr. Allaway accordingly, you and your colleagues, you and all your colleagues? --- Well I did not instruct Mr. Allaway on the rally, I instructed Mr. Soggot and Mr. Soggot is in charge of my defence.

But when you heard Mr. Allaway putting these matters to Mr. Singh, you abided by it, that is the point?

Well / ...

--- Well it depends what issues they were, some issues that were put by Mr. Allaway I appraised Mr. Soggot of if I thought they were wrong, he used his discretion.

We are just dealing with this particular issue, Doctor, not generally, I do not want to know what your defence is, we are dealing with this particular aspect, you can confine yourself to that? --- Yes? Mr. Allaway was not representing me, I was represented by Mr. Soggot, and whenever issues arose which I thought were being put wrongly I appraised Mr. Soggot ..(Mr. Rees intervenes) 10

Did you do anything to correct this particular instance? --- I do not remember, I do not remember, there are so many things that ..(Mr. Rees intervenes)

But this was an important one, Singh was being attacked, and you see with regard to the phoning of Mayathula, after the tapes had been put in, No.1 did draw his Counsel's attention to that specifically, as he said here in the box? --- Well I cannot give evidence on that, Mr. Rees.

No, but what you can give evidence on therefore is 20 what your own attitude was with regard to that point, this particular point of the attack on Singh with reference to his evidence concerning China? --- I do not - as I say - I do not remember whether I specifically pointed that out to Mr. Soggot, but I have pointed out a lot of things to Mr. Soggot in this case, and the case has been going on for so long, it is a case of words, Counsel used their discretion as to whether a particular thing should be attacked or not, I do not know whether the line they are following is a major attack on a witness or not, 30

I / ...

I do not know, I am not legally trained, I have no
idea of how these things are run.

COURT ADJOURNS

/VMD.

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