

MR SHUN CHETTY

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

Vol 86

CASE NO.: 18/75/254.

DATE: 10th MAY, 1976.

THE STATE

vs

S. COOPER AND EIGHT OTHERS

VOLUME 86

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LUBBE RECORDINGS (PRETORIA)

THE COURT RESUMES ON THE 10th MAY, 1976.

MAITSHE NCHAUPE AUBREY MOKOAPE: still under oath:

FURTHER EXAMINATION BY MR SOGGOT: If we may continue from where we were on Friday. I was asking about Harry Singh. The suggestion he made was that the general strike was one of the methods of struggle conceived of either by the BPC or some inner core of BPC. What do you say to that? -- At 'Maritzburg?

Well, he does mention 'Maritzburg as well, if you would like to deal with that. -- Well, there was nothing of (10) that sort at Pietermaritzburg at all. I listened to what he said and I think he was misrepresenting the truth and there was nothing that happened subsequently that was along those lines at all as far as I know.

I am not going to take you through the details of his evidence. He said that you were a member of the supreme command. What do you say about the supreme command? -- There was nothing of that nature that I know.

Did you, Saths Cooper - that is accused No. 1 - Mayathula and Singh in any way play a role in concerts, as it (20) were, together? -- No, there wasn't anything of that nature.

Now, the suggestion also is that Mayathula at one stage announced a plan for a multiple cell system in every compound, leading eventually to a general strike. What do you say about that? -- I do not know about that either.

Then there is his suggestion that when he came back from Europe he told you what had happened on his overseas trip and that you said well, we are wasting time, we must go for military training, or words to that effect. I am not reproducing him exactly. What do you say about that? -- I (30) did not tell him any such thing.

Tell/...

Tell us what happened. Did you see him after his trip?
-- Yes, I did see him after his trip to Europe. He came over to my place at the hospital with Saths Cooper and he found me there, I was with a friend of mine, Tyna, that is Dr Matsipa, and he told me how he had fared, that he had not been able to bring back a substantial amount of money, but that he had been to many places. He had not been able to go to America, which was the place he was supposed to go to also, and I felt generally that he had achieved some purpose, because at least as a public relations work for BPC I thought it was (10) important to meet people, to tell people about what BPC is all about and generally to get people supporting the cause of BPC.

Now, when you had this discussion, who was present and where did this discussion take place? -- It took place at the hospital.

At the hospital? -- That is right. He was present, I was present, Saths Cooper was present and Tyna, Dr Matsipa was also present.

Had you spoken to Singh at all before his departure? Can you remember? -- Yes, I had spoken to him. (20)

About what? -- Well, he had come to me to say that he was going to Europe. He had come again with Saths Cooper on this occasion to say that he was going to Europe. He had volunteered to go there because he was going to go on leave and he had a passport and he was - because I had been to Europe myself, he wanted to know if I could assist insofar as perhaps obtaining funds for him from people I knew in Europe so that he could go to America, because his ticket did not cover America.

And did you give him anything? -- Well, I gave him a name of someone I knew in Geneva who could be of assistance (30) in that direction.

I think he also suggests indirectly that you had seen Mr Sobukwe at some stage prior to the formation or in connection with the formation of BPC. What do you say about that? -- That is incorrect. I did not see Mr Sobukwe in connection with the formation of BPC. I knew Mr Sobukwe, but I did not see him at all in connection with the formation of BPC.

What did you know Mr Sobukwe from? -- I knew Mr Sobukwe. First of all Mr Sobukwe was my neighbour in Soweto many years back. I knew him also as a leader of the Pan Africanist Congress and I myself was a member of the Pan Africanist (10) Congress with Mr Sobukwe.

Is that before the banning or after the banning? -- That was before the Pan Africanist Congress was banned.

Was banned. Now after the banning we know that Mr Sobukwe went to jail for a long time. -- That is right.

Have you ever seen him again? -- Well, after the banning I had no contact whatsoever with the Pan Africanist Congress. As for Mr Sobukwe, he came out of jail, I think, in 1969 or 1970, I am not too certain and I saw him for the first time after his release some time in late 1973. I met him (20) at the Baragwanath Hospital where he had come to see his child who had been hospitalised there.

Until then. I do not want to go into the details. Until that time from the time of his going to jail until that moment at Baragwanath Hospital had you spoken to him directly or indirectly? -- No, I had not met him, I had not seen him at all

Or any communication. -- No, I had not had any communication with him at all.

Now, still dealing with miscellaneous topics, you, I think, spoke at the Kajee Hall in 1973. Is that right? (30) -- That is correct.

And/...

And you were arrested - or rather you were charged for your speech there. Is that right? -- That is correct.

And you were eventually convicted for incitement of racial hostility. -- I was convicted.

And what was your sentence? -- My sentence was one month with an option of a fine.

What was the fine? Can you remember? -- I think it was R75 and there were a couple of months which was suspended also.

You were charged with Harry Singh?-- I was charged with Harry Singh, yes. (10)

And did he get the same sentence? -- No, he got a heavier sentence than mine.

Now BPC E.4 purports to contain a transcript of what was said at that meeting. Is that correct? -- I do not know the exhibit numbers.

Well, you can take it from me that is right. In connection with this transcript as with the others, an attempt was made to settle the - to come to an agreement with the State. Is that correct? In regard to the contents of the transcript. -- That is correct. (20)

And you sat down I believe with Captain Du Toit, is that right? -- That is correct.

And you listened to it. -- That is correct.

And would you tell His Lordship whether you could come to any agreement? And if not, why not? -- The tape from which the transcript is made, is of very poor quality indeed. Captain Du Toit has himself admitted that it is, when I spoke to him several times in the former trial in which I was charged and in this present trial. When one listens, for instance, without this transcript in front of him, one (30) can hear anything, can hear things that do not appear on this particular/...

particular transcript. But if one listens with the transcript in front of him, one tends to hear the words that appear in this transcript and I have listened quite a few times to this thing and I have never been able to make up my mind as to whether it is a correct transcript of that particular tape. It is quite incoherent as I say.

BY THE COURT: Is the transcript incoherent? The tape? -- The tape.

MR SOGGOT: Is your attitude then that you are not prepared to admit that this transcript is correct? Is that what it (10) amounts to? -- Yes, I cannot admit because I find it difficult to confirm that what appears in the transcript is what appears in the tape.

Did you suggest certain amendments at one stage? -- When I listened to the tape with the transcript some places I hear other words.

You hear other words. -- That is right.

M'Lcird, I am leading this evidence merely in order to indicate our attitude. I personally did hear at one stage part of the statement, I could make nothing out of it (20) and I left it, I canvass it, put the onus on the accused, it is his business and that is his attitude. Just to get other clarity. At your actual trial were any admissions made about this record or transcript? -- Well, at the actual trial we had the same problem there too. After Captain Du Toit had presented the transcript, I think the defence listened and the defence produced what they probably heard, but unfortunately there too, they had been using Captain Du Toit's transcript as a base for making their transcript. So there too the element came in of suggestibility. (30)

But did they admit - did you come to an agreement with the State/...

State in that trial on what should be a correct transcript? -- Well, I did not give evidence in that trial.

You did not give evidence. -- No.

But you were attended by Advocate Scree(?). -- I was attended by Advocate Scree.

Did he appear for Singh as well? -- No, he did not. Advocate Jacob(?) appeared for Singh.

Just for clarity sake, because it may be relevant, did your advocate admit the correctness of any transcript, corrected or uncorrected in that trial? -- I think he put (10) in a transcript of what he thought he heard.

Now, as far as your memory goes, assisted or otherwise by BPC E.4 did you - what is your attitude as to what you said or wanted to say at that Kajee Hall meeting? What was your intention in relation to racial hostility? -- Well, I had no intention whatsoever of inciting racial hostility. I was merely speaking, I was speaking off the cuff, I was speaking about the entire Sharpeville episode as I see it and as it is seen in the Black community that there at Sharpeville people were murdered by the police and what I was trying to say (20) really was that although such things do happen, it is important for us to get inspiration through this kind of thing, because those people were after all fighting for human dignity as we also are concerned with human dignity.

You also made a speech in 1972, I think this was at the Allan Taylor Residence, is that right? -- That is correct.

And that has its echo in, I think, in count 3, which relates to the 19th March, 1972, Sharpeville commemoration meeting where there is a speech attributed to you and a copy of which was eventually made available by the State in (30) an annexure. Now this speech here, the more important words are/...

are - it is Annexure B - M'Lord, there is no annexure to the indictment, there is only an annexure to the further particulars, but the more important words are, you are referring to people who died at Sharpeville, Langa and so on, Vanderbijlpark and you say:

"because they were fighting for our liberation the hands of the White men are dripping with blood, ladies and gentlemen, and the onus is on us to do something about it." (10)

Now again, when you used that phrase, what was your intention? -- I had no intention of arousing racial hostility. What I was putting across there and talking it in the context of Sharpeville and incidents where Black people have been killed while demonstrating against the laws of this country, was that there is a conspicuous disregard for the sanctity of Black life in this country and that we Black people should get together in an organisation and make our voice heard that we do not like this kind of thing, and I was using an image there, I was obviously not saying that if you look at the White (20) men in the streets, his hands are bloody. I was merely using an image to indicate, as I say, the contempt for human life.

On both occasions, that is the 1972 and the 1973 speeches, what effect, any further effect did you have on the audience, if any? -- Well, I did not detect any arousal of hostility in the audience. I thought the audience was just responding in the normal fashion that audiences respond. Sort of to say, well, you are speaking the truth.

Merely for the sake of the record, this particular speech which figures in count 3, is truly reflected in SASO (30) B.1, that is the meeting when Nengwekulu spoke and it is on page/...

page 25. I do not propose to deal with it further at this stage. What, referring to your speech at Kajee Hall, would you tell His Lordship with what tone and/or mood you expressed yourself at that meeting? -- Well, I could say I was deploring the fact that incidents like the one at Sharpeville happened to Black people, that Black people tend to get killed whenever they protest against the iniquitive laws that oppress them and there was no attempt in me to arouse the audience in any particular fashion. It was so to say a point of departure, telling the people what they know and saying this (10) creates a commonness amongst us which therefore should motivate us to work together.

I think that I would ask you to deal with the Durban Viva Frelimo Rally. Will you tell us shortly when you first heard about it and what role, if any, you played in its conception and development? -- Well, I first heard of the Durban V.F. Rally on the Saturday, that is before the Wednesday when the rally was going to be held and I happened to hear about this in the city in Durban. I met some BPC members in town who told me that this rally was going to be held (20) on Wednesday. I was rather surprised that a rally of this nature was going to be held on the Wednesday and it was Saturday already and there had not been any advertisement. I had not heard about it, nor had I read about it. So I went up to the BAWU office where I found a number of people there, amongst them I think were Saths Cooper (accused No. 1), accused No. 5, Nkwenkwe Nkomo, Harry Singh, Memzi(?) Mbeo, Lindewe Mabandla and a few other people. So when I got there, I asked them about this and they confirmed that there was going to be a rally on Wednesday. So I asked but if (30) they intended holding this rally on Wednesday, why is it that they/...

they haven't started with any publicity whatsoever. The impression I was getting was that they were handling this thing in a slapdash fashion. So I was assured by them that they were beginning already with the publicity campaign that very morning and that Mr Myeza who was then secretary-general of SASO was to be in charge of this publicity. They also told me that they had booked the Curries Fountain Stadium in the name of BAWU as a contingency plan in case the rally gets banned, because the organisation have an experience of their meetings being banned by the police. (10)

BY THE COURT: Isn't it the other way around? They had booked the Kajee Hall in case they cannot use the Curries Fountain?

-- No, this rally was being held by SASO and BPC.

Yes, at Curries Fountain. -- At Curries Fountain. But that Curries Fountain was booked by BAWU. And that was the contingency plan.

Oh, I see.

MR SOGGOT: There is some other contingency plan which we will deal with a bit later. If I may interrupt you at this stage, what did you understand at that stage was the purpose (20) of holding this rally? -- The purpose of holding the rally, as I understood, was to celebrate with the people of Mozambique as represented in Frelimo, over their accession to power; the cessation of oppression and of hostilities in Mozambique and the attainment of liberation, human dignity in Mozambique.

Now, what was your response to this? Did you think it was a good idea or dangerous or what? -- I thought it was a good idea. Well, I knew that this government had intimated, our government that is, had intimated that they have no quarrel with Frelimo and in fact they do recognise the (30) fact that Frelimo has come into power and that they will adopt/...

adopt a policy of good neighbourliness and I thought that it was a good idea for SASO and BPC to also indicate their happiness at this transition of power on behalf of the Black people of this country and I may point out too that in the townships and everywhere Black people were happy that liberation had at last dawned in Mozambique so I thought that these movements, as movements of the Black people, were quite entitled and should in fact express this happiness that is there in the Black community.

Would you carry on from there. You were told about (10) this rally, and their various plans. -- That is right.

Did you anticipate or feel at that stage that there could be any danger, riots, trouble with the police? -- No, not at all. In fact it was because of the statements that had been given by members of the government, members of the opposition party and the entire ruling structure in this country, one felt that there was a positive view towards Frelimo in this country and since Black people then had a - or rather cannot be rightly said to be represented by the White superstructure, I felt that the Black movements (20) which represent the Black people should make known also the fact that Black people are happy about this. I think one of the opposition members in parliament, Lionel Murray(?) had gone to Mozambique and he had made a long press statement about Frelimo and how good neighbourliness could be pursued. So in my mind there was no question whatsoever that this could lead to any reaction, untoward reaction, except of course that there was the nagging fear that the police might want to have this rally banned because they always harass our organisations.

The trip to Lourenco Marques, who discussed that? (30)
How did that come up? -- Well, we discussed the trip
to/...

to Lourenco Marques because apparently the SASO and BPC people when they had organised - when they began organising the rally, had thought of having Frelimo speakers, but apparently they had not made any arrangement from this. So on this Saturday morning that I was there, Harry Singh felt that for credibility, attempts should be made to get Frelimo speakers and that he would volunteer to go to Mozambique and obtain a Frelimo speaker or speakers and I agreed with this.

I do not think it is particularly important, but whose idea was it in the first place? -- It came from Harry Singh. (10)

It came from Singh. -- Yes, that he would go.

But you agreed with this. -- I agreed with it.

And you endorsed the idea. -- I endorsed the idea.

Can you tell us what happened after that? -- Well, I also spoke to Mr Myeza in the company of the others and he assured me that he was busy with the publicity for the rally because this was a thing that perturbed me a little that at this stage they had not yet begun publicity.

Did you yourself partake at all in the organisation (20) or preparation for the rally? .. -- Well ... (both speaking simultaneously)

... of leaflets? -- On the Sunday evening Mr Myeza came to my house I think with Ahmed Bawa and some other people still from the University of Natal, Black Section. They had been going around, doing some publicity for the rally, announcing over the megaphone that there will be such a rally and putting up banners. Primarily they came to my house because they wanted petrol, it was a Sunday and they had run out of petrol to go from place to place. I arranged for them to get (30) petrol and whilst doing this, I also assisted them in putting up/...

up, I think it was one banner at a point at Umlazi and I think whilst we were in the car I also spoke on the megaphone. And they left my place and went to some other places where they were going to publicise the rally.

Now, would you from that point - let me just first ask you: from that point to the meeting at doctors' quarters, otherwise known as D.Q., did you have any further dealings with the preparation for the rally? I am not talking about any conversations with the tapes or .. -- No, I did not. I did not engage in the real organisation of the rally. (10)

Now, would you just tell His Lordship from that Sunday to Wednesday lunch-time what was your understanding of what was happening? What your people, BPC and SASO people were going to do? -- Well, I understood that there would be a gathering at the Curries Fountain, people would gather there and that the BPC and SASO people would give some speeches, address those present and that if they had - those who had gone to Lourenco Marques, I mean, Harry Singh had had any luck, would bring Frelimo speakers, then a Frelimo speaker would address the rally. (20)

When did you first find out or believe - let us put it in the latter way - when did you first believe that the rally had been banned? -- I think that was either on the Tuesday night or Wednesday morning.

And then you met these people at Doctors' Quarters? Is that right? -- Then I met them at Doctors' Quarters.

Did you know they were coming to Doctors' Quarters that Wednesday the 25th? -- No, I did not.

How did you meet them and where did you meet them? -- I met them in my flat at the Doctors' Quarters. I was off (30) for lunch.

About/...

About what time was this? -- Around lunch-time, about one o'clock. And I was off for lunch, as I was saying, and I went up to my room. I think again on this occasion I was with Dr Matsipa and we found them in the room and there were a couple of them there. Saths Cooper was there, Muntu Myeza, Mosioua Lekota (that is accused No. 3), Nkwenkwe Nkomo, Harry Singh.

Yes, now would you tell us what was the discussion about? -- The discussion there hinged upon the fact that we could not go on with the rally since the rally was now banned (10) and that since we could not go on with the rally as we had planned it, what then were we to do. There was a great deal of discussion; discussion went to and fro about all sorts of devices which we could use to get out of the situation so to say, and ultimately it formulated itself into a plan that Muntu Myeza as the man who had been at the head of the publicity for this rally, would go to the Curries Fountain, if there were people there, and he would there disperse the people gathered there and in so dispersing them he would put a few words of criticism against the government for having (20) banned this rally. It was in this context also that Dr Matsipa said, volunteered that he would go and see if there were people at the rally at Curries Fountain and he would inform the SASO office if there were people, so that Muntu Myeza could go there. So one could say we had this packet(?) plan which resulted as - resulted from the discussions that we had at the D.Q.

We know what Harry Singh's evidence is about. Could you tell us what was said about Sharpeville or what reference was made to Sharpeville? And in what context? At that (30) meeting? -- I made the reference to Sharpeville there and this reference/...

reference was made primarily with regard to Harry Singh, because after he had come back from Lourenco Marques he felt he had put in so much into the organisation of this rally that he felt we should go on with the rally and I said to him that - well, to the house in general that we cannot afford a Sharpeville. It was in that context that Sharpeville was mentioned, because I was looking at it from this point of view that if we go on with the rally willy-nilly then the police will be forced to intervene, whereas if we put into operation this plan of ours, the police would not have any call to (10) intervene, because we would ourselves call the rally off.

Was there any discussion about a press conference or press statements or two different press statements? -- There was discussion about a press conference. In fact it was one of the main discussions there that since we are at this stage and we are not going to be able to hold the rally as we anticipated it is necessary and essential that we hold a press conference to state our entire attitude to the manner in which the government has handled this rally and the manner in which they have tried to frustrate what was an innocuous (20) and ordinary thing.

And was any attempt made by anybody in that meeting at D.Q. to start writing a press conference statement? -- Yes, this came about in this fashion that Muntu Myeza was complaining that the press had been very unfair to him and that it had misquoted him, it had generally created a wrong impression about this entire rally and we said to him that at this particular press conference he should try and have something written down, because if he gives the press, if he talks to the press off the cuff, the press is able to pick up (30) anything and to build up a story around that kind of thing.

So/...

So in this regard him and I jotted down points as the discussion proceeded there. I was the first one who started writing and then later on he took over.

Why did he do that? -- Well, it was because he was going to write the body of the statement and it was best if he took down what points were being made at that meeting and we were writing on two separate pieces of paper. I wrote on one and he wrote on another. When he left there, he took both the copies with him.

We know now that Mrs Vina Cooper went to the rally (10) and she does appear in certain photographs. Was there any mention that this might happen? -- That Vina Cooper might go to the rally?

Yes, that Vina Cooper might to to the rally. -- No, we did not discuss Vina Cooper at all.

Now your own wife, did you know whether she was going or not? -- Yes, I knew that my wife was going. Not at that stage. After the meeting at the D.Q. she came to my flat - or rather to the ward and she said she wanted to go to the rally out of curiosity and she took my little baby with her. (20)

How old is the child? -- I do not now know how old it is, I have been so long in jail, I think it is 7 now. Then it was about 5.

5 years. -- Yes.

So you knew that she was going to go along. -- I knew that she was going to go along.

What was your attitude to that? -- Well, my attitude was that I did not fear any danger whatsoever in their there. They wanted to go for curiosity sake and they wanted to see what was going to happen. So I let them go. (30)

Now, is there anything else you wish to add as far as
your/...

your account of the Doctors' Quarters meeting is concerned?
-- There was also mention to it that we thought that if the people gathered at Curries Fountain and we did not show up and the people were left there with the police alone, that it could be possible that an untoward situation may arise and in this context we thought and I thought in particular that it is necessary that one of us go there and take charge, so to say, of that crowd of people that is there, because there is always a problem if you have a crowd of people under no leadership gathered at a place. (10)

You say that Mr Myeza (accused No. 2) was supposed to go along? -- He was supposed to go along.

Now, on arriving at the rally, was he supposed to just speak to the crowd straight away or what? What was discussed?
-- Well, we spoke about his approaching the officer in command, but we also spoke about his just speaking to the people there. It was a rather open discretionary thing as to whether he would speak to the officer in command or as to whether he could just speak to the people without necessarily asking for permission. (20)

Now, merely in order to show your own thinking, had you ever heard of people doing this sort of thing before, with the permission of the police asking the crowd to disperse? -- Oh, yes.

Can you tell us what you understand has happened in the past? -- It happened at several meetings that the leaders of those meetings have asked the people to disperse when the police wanted them to disperse. I know for instance that during the Cape Town demonstrations of the sixties, Phillip Skosana, who was then a young man leading the PAC, had led a crowd (30) of about 100 000 into Cape Town and when he got into Cape Town

he/...

he spoke to, I think it was the Commissioner of Police, who asked him to disperse the people and he did so, he dispersed the people, but unfortunately he got arrested thereafter.

Now, the meeting then came to an end and these people went off presumably on their own way wherever they were going. What was the next thing that happened as far as you are concerned? -- The next thing that happened, I think I telephoned.

Well, then you had certain telephonic conversations. -- Yes, I had certain .. (intervenes)

We will deal with that... -- That is right. (10)

In relation to the tapes. You know, I do not want to duplicate that now. -- Well, the next event that occurred as far as I was concerned, was that my wife came to the hospital the evening of that day and she had been bitten by a police dog at the rally and she had also lost my baby there at the rally during the attack on the crowd by the police dogs.

And the child had to be found. Is that right? -- The child had to be found. So I immediately left work and went around looking for it.

Apart from that, were there any other events that (20) involved you? Were you involved in the press conference at all? -- No, I was not involved with the press conference. I had expressed the desire to go to the press conference, but I was on intake that day and it was not possible for me to go there.

And then the next thing I imagine, would be your arrest some days thereafter. Is that right? -- The next thing that happened was my arrest some days .. (intervenes)

You were found, I think, with a document in your pocket, EXHIBIT RALLY A.3. Is that in your handwriting? -- That is correct. (30)

Just for the sake of clarity, about how many days after
the/...

the 25th were you arrested? -- I was arrested on the 11th October.

And you were still carrying this in your pocket. -- Yes, I had this in my pocket.

I do not know if Your Lordship has got this.

BY THE COURT: I am getting it.

MR SOGGOT: What is this document? It is in your handwriting. -- That is right.

Why did you write this? For what purpose? -- Well, this document was written by me a number of days after that (10) rally. In actual fact it was a doodle, I was trying to express my attitude to what had happened at the Curries Fountain. Well at first I was quite indignant because amongst other things my wife had been bitten by a dog, but as you can see it constitutes only two paragraphs here. It was an attempt at writing something and I gave it up, I could not proceed for one reason or another and that is all that there is to this document.

And what do you say about this document? Does it express your views, your thinking, or not? -- Yes, it does express my views, except that it is not a complete document and I (20) do not know in what direction my thoughts would have taken me to

If you would please look at EXHIBIT C, Rally. I think that you are referred to on page 9, Aubrey Mokoape. -- Page 9?

That is right. I do not want to go through all of this, because this has been the subject of evidence already. I merely want to deal with it insofar as your particular perspective is concerned. Now, you were phoned. Is that correct? -- Yes, I was telephoned.

And then a person called Ralph spoke to you and thereafter accused No. 1. -- That is correct. (30)

And he asks you, he says, just below the middle of the page/...

page:

"Hell, we have been waiting for you from yesterday, man."

Is that right? -- That is correct.

Now, had you spoken to him before that? -- Spoken to him? On the phone. -- No, I had not spoken to him, no.

And then you say:

"The point is that I do - I did not know where you had gone to - I arrived there." --

(10)

That is correct.

Now you say you went up to BAWU. Did you go up to BAWU? -- Yes, I went up to BAWU.

When was that and why? -- I think it was on the Tuesday. I went up to BAWU merely to see the progress that had been made with the rally.

With the rally. -- With the organisation of the rally.

And then it goes on. He says:

"You must come now, man."

Now, what I want to deal with now, is the suggestion (20) again is that you had a particular position of adviser. What do you say about that in relation to the rally? -- In relation to the rally?

Yes, you know about Singh's general line of evidence. Now as far as this is concerned, did you have any - what advisory role, if any, did you have in relation to the rally? -- I think it is incorrect to say that I had an advisory role, but I was playing a part insofar as I was able to assist in the organisation of the rally. For instance, if I were not working, I would probably have been going out giving (30) pamphlets and things like those, but now that I was working, I assisted/...

assisted to the extent that I could only, but there was no question of my being an adviser. I merely put in my opinion to help in formulating a direction.

Then you say you cannot come up and then Cooper says, at the bottom of the page:

"It is either make or break now."

-- Yes.

Now what did you understand him to mean by that? -- Well, I understood him merely to mean that we have got to take an important and well advised decision, because I think (10) this was at the time that the people had said the rally was being banned.

We know this is Wednesday, 25th September. -- That is right.

What time would you say this conversation took place? -- It took place in the morning.

Can you give us any indication when? -- That would be around ten, eleven.

And I think in terms of the evidence, I am not sure, I must not put it to you directly, what was your under- (20) standing as to whether the rally was banned or not at that stage? -- At this stage I thought the rally was banned.

It was banned? -- Hmm.

Then tell us then what you understood by the conversation:

"It is either make or break now and we are going ahead, we are going ahead, we are going ahead."

-- Well, by that I understood that plans had been made that BAWU would take over this rally if SASO and BPC are in any way incapacitated and that when he says we are going ahead (30) there, he means that the rally will go on, BAWU will take it over/...

over, because there I asked him:

"Ja, but I mean what have you decided?
What are you going to do?"

And he says:

"We are going ahead."

That is at the top of the page, page 2.

Then he makes a reference to newspapers and then he says:
"It will depend on the number who
will turn up.."

And

(10)

"If it is an apology for a crowd"

Now what did you understand from what he said there as to the
number who would turn up? -- You are reading from - oh, at the
top of the page.

I am trying to actually truncate if possible, but the
reference to that conversation to the number ... -- Well, I
understood him - pardon?

What is the relevance of number in that conversation? --
Well, I understood this to mean that if people are there, then
BAWU takes over the rally and goes on. If there are no (20)
people then nobody goes on with the rally.

And then you say in the middle of the page:

"Well, you have started the rally then."

He says:

"Ja.

I mean you are going to start the rally.

Ja.

And at what stage are you going to
cancel it?"

And he says:

(30)

"Ah, they, they'll stop it.

You/...

You mean they will stop it."

Now, can you tell us what you understood by that? -- Well, here I thought what he was referring to was that if BAWU takes over this rally, BAWU is perfectly entitled to continue with this rally and we will let it continue with this rally and if the police feel that BAWU should not continue with this rally, they will stop it.

And then:

".. if it is attended by very few people."

(10)

He says:

"No, no then we're not having it. Then we'll just say well this thing is banned, finished and klaar."

-- Yes.

That speaks for itself. Now, would you, in the light of what you have just referred to, read from the third last line:

"By the way have you prepared a statement ..."

Have you got that? -- Yes, I see it. That is right. (20)

"in case you have to cancel it?"

-- Yes.

And Cooper says: "Ja." -- Hmm.

And then:

"Or a statement in case you have to go far away."

What did you mean by that? -- Oh, in case some of you are arrested.

And what was in your mind when you were thinking of a possible arrest? -- Well, I was thinking about - in terms (30) of this that the rally had been banned. They might attempt to go/...

go ahead with the rally in BAWU's name and the police might interpret this as meaning that SASO and BPC are going with the rally and they might arrest them.

As far as members of BAWU are concerned, how did they - what is their - what membership, if any, or relationship, if any, have they got with SASO or BPC? -- BAWU is a workers union, it is a Black movement, it shares our belief in Black consciousness and to that extent it works harmoniously with SASO and BPC and to some extent there is also overlapping membership by some people. (10)

Now, the next few lines I would like you to explain please. Can you read from:

"If you have to cancel it."

-- That is right.

"If you have to cancel it. It is not going to be said by us. The cancelling is because it is banned."

Then he says:

"Umm."

presumably meaning yes. -- Yes. (20)

And then you say:

"Ah! We say, we can say we don't seek confrontation, you know, but the blame must still rest with them eh!"

What do you say you meant by that? -- Well, already at that stage I was toying in my mind with the fact that we will have to cancel this rally and that if we do cancel this rally, we have got to have something to say and I was saying that from a propaganda point of view we will say we cancelled it because we did not seek confrontation, but we must blame them, (30) we must say that they banned the rally.

Then/...

Then Cooper says:

"No we can't say we don't seek confer ...
confrontation, we don't talk about it."

Now what did you understand his meaning to be there and why he took that attitude? -- Well, I do not think he liked the way in which I put it. He thought that that approach was not appropriate that some people desisting in particular could fixate on our saying we do not seek confrontation and then say there might be something fishy there. So he was saying no, he does not like that approach, we just say we are (10) not going on with the rally because the rally is banned.

Then you say:

"Ja, but I mean that, that ah,
whatever situation it is ah, ah, if
they have to cancel it.

Uhu.

We must blame them.

No we'll blame them."

And then you say:

"That ... we suspected ~~that~~ they had (20)
a motive of ah, creating anoth.. ah, ah,
Sharpeville or something."

-- Yes.

Can you tell us what you meant by that? -- Well, it is the same thought really that is started from above there that we say we do not seek confrontation. We do not want a Sharpeville, they want a Sharpeville, so we are backing out of this rally because of that. We suspect their motives.

And then you go on:

"Or that we heard rumours. We can (30)
even go ahead and say that we heard ..."

I/...

I do not know if your copy has got these words:

"or that we heard rumours. We can even go ahead and say that we heard rumours about mobilizing ..."

And then Cooper says:

"No of course this is true because I believe mercenaries have been phoning and volunteering their services."

Now can you tell us what those lines are about? -- It is again a continuation of the same thought as I explained. (10) We had our thinking of the situation where we backed out and why we are going to say we are backing out.

And then you refer to the fact that you are going to have a press conference. -- I think you will notice here this entire telephone call that we really are thinking aloud. It was at a very tentative stage and it was in the morning, there had not been any decision whatsoever. And we were turning over all sorts of possibilities.

Then you talk about the guys who do not arrive, presumably referring to the expected Frelimo speakers. Is that (20) right? And Cooper says:

"I suspect they have been arrested."

I do not want to ask you about that. -- That is at?

Would you go on to the next page, that is page 4. And then Cooper says about a quarter of the way down the page:

"So this is it. Anyway we'll see, this thing here is, we'll judge by the attendance ..."

And then you say:

"I'll try to run into town..."

(30)

and then Cooper says:

"Just/..."

"Just speak to him it's urgent because we, we're taking some we're doing some drastic things, which I, we can't discuss on the phone."

What did you understand by that? -- I think there he was really saying it is important for us to make correct decisions, this is an important stage for us now, because here it is the rally has been banned and we have got to make the correct decisions. It is rather melodramatic session(?) of putting it.

I may put it to you this way. You can speak with (10) hind-sight now, looking backwards, did Cooper or anybody else from the organisation, ever make a suggestion which amounted to the taking of a drastic step? -- In relation to the rally?

That is correct. By drastic I mean in the ordinary English meaning. -- No, there was not any suggestion made by Cooper that I remember of ... (intervenes)

Or anybody else. -- .. of a drastic nature.

Or anybody else. -- There was the talk later on by Harry Singh that we should go on with the rally, but even that was not taken too seriously. (20)

THE COURT ADJOURNS FOR TEA. THE COURT RESUMES.

MAITSHE NCHAUPE AUBREY MOKOAPE: still under oath:

FURTHER EXAMINATION BY MR SOGGOT: Now, Dr Mokoape ..(intervenes)

BY THE COURT: Welcomes a visiting judge who is interested in the case and he is going to deliver an important paper at a symposium in Pretoria in the near future.

MR SOGGOT: We were dealing with page 12 of EXHIBIT C and we got to the point where you told His Lordship what the significance of the phrase 'drastic things' was about. Would you please just carry on from there. You then said to him: (30)

".. you're phoning from the office?

Ja the other thing .. you're phoning

from/...

from your phone there?"

And Cooper says:

".. from BAWU."

And you say:

"That's a stupid phone anyway..."

Now what do you mean by that? -- Well, what I mean there by saying that is a stupid phone anyway, I am indicating a suspicion that that phone could be tapped. There is always the suspicion we have that the telephones of our offices are tapped by members of the Security Police and it is in (10) that context that I say I can't tell you what I want to tell you over that phone because it is a stupid phone.

Can you remember what you wanted to tell him? -- Well, I think that appears later down here in the same call where I say:

"I think I have got an intelligent brainwave ... which we can use to fox these guys ..."

And what was that intelligent brainwave? -- At the time I was thinking that we could bring a court order to stop the police from interfering with this rally or to invalidate (20) the banning order.

Is that what you were referring to with intelligent brainwave? -- That is what I was thinking of, but I did not want to say that over the telephone, because I thought if they overhear that then they can make it difficult for us to bring such an order.

And then Cooper says:

"Well we've got that too but we decided that against it, because now it will appear that we are seeking the (30) easy way out."

What/...

What is he talking about? Do you know? What did you understand? -- Well, I do not know exactly what he is talking about there. First of all I do not know if he caught on to what I was trying to suggest, but there was an attempt on my part here to talk in code, you see, so maybe he did not understand exactly what I was saying and he thought he understood and he said we are seeking the easy way out. Then I let the matter rest there.

You say -- he says here:

"I think we are thinking on the same lines.." (10)

and then there is a reference to 86, at the bottom of the page. What is that? -- 86 is 86 Beatrice Street, that is where the SASO offices are located.

And then on the top of page 5, you say:

"Well ja, because nobody must put themselves in a position where they have to be the recipients of drastic action."

What was that about? -- Well, I was thinking that there was a possibility at that stage of the Security Police wading in(20) and issuing people like accused No. 2, Muntu Myeza, accused No. 3, Mosioua Lekota, issuing them with banning orders. This has happened in the past, our people just get banned arbitrarily and I thought that these people must make sure that they do not get these things before they see this thing to its end.

And then you say you will come over and so on. Then, would you turn to the next conversation which involves you and which is, I think, your conversation with accused No. 2. -- No, I think the next conversation is my conversation (30) with accused No. 3.

There/...

There is your conversation with Bawa, which is on page 91. Is that correct? -- Page 92.

That is correct. Before we come to that, would you have a look - before you deal with that conversation, I just want to get something out of the way. Would you turn to page 28 please?

"GESPREK TUSSEN MUNTU MYEZA EN AUBREY"

-- That is correct, I have got it.

Now, the Aubrey there, is that you? -- That is definitely not me. (10)

That is not you. Have you listened to this tape? -- I have listened to it.

And you say that is not you? -- That is not my voice and the phone is made from Hammersdale and I was not anywhere near there.

Now, on page 92 then there is a conversation with you and Lekota. Perhaps would you start from the middle of the page, about line 6 or where it says:

"Eh sweet, eh sweet wat sê, wat ek
sê Jack, wat gee op by detente" (20)

Now that is you. What sort of language are you talking there? -- My copy hasn't got all those things here.

I know. These are amendments. If you would just oral note of it.

"Ek sweet, ek sweet wat, ek sê Jack,
wat gee op by detente."

Now, do you speak Afrikaans? -- I do speak Afrikaans.

And is this the sort of speech which is customary in your ordinary ... ? -- Well, this is really not Afrikaans as such, this is township slang, a mixture of Afrikaans, (30) English, the vernaculars, everything is a medley.

Was/...

Was there any particular purpose in introducing it or what? -- No .. (intervenes - not into the microphone)

My Learned Friend says was it supposed to be a code. -- No, not in this particular instance. The thing is I was speaking to Lekota here who is accused No. 3 and we normally speak in that fashion with him.

Then would you look at the line, Lekota:

"Ek is net hierso, jy sien die ding is,
die boys hulle, die boys is hierso,
daars baie mense daar by hulle, daars
ook 'n army daarso. (10)

-- Have you got that? -- That is correct, I have got it.

Then you say:

"Ek hoor die hele army is eh"

Now, can you just tell us about that line? Had you heard anything about an army and what was the use of the word 'army' in that context? -- Well, I think I picked it up from him there. He says there is also an army there and he is referring in this context to Curries Fountain and I say I hear there is an army there. That is what I am saying there. (20)

And then he says:

"Ja en daars 'n groot mob van mense
daarso."

And then you say:

"Moenie sê daars baie mense Jack."

Now who is Jack, by the way? -- Jack is just a masculine name which refers to 'friend, pal, mate'.

Now why do you say that:

"Moenie sê daars baie mense Jack."

-- Well, I say, do not say there are a lot of people, (30)
then it means we have to go on with our plan.

And/...

And then you ask:

"Daars baie mense daar?"

Ja man.

Ek sê ons moet net aangaan, daar
is boger al wat"

Can you tell us what you meant in that line? -- Well, I am saying that we have to put into operation our plans because there is no alternative. If you are saying there are a lot of people there, then we just have to go on with our plans.

Then he says: (10)

"Dis al, dis al man."

And you say:

"Nee wag, het hulle die plek toege-
sluit."

And he says the gates are 'geblok' and you again come back to

"Ja, daar is baie mense"

and you say:

"Moenie sê nie."

Can you, solely relying on your repetition of that phrase "moenie sê daar is baie mense" and then "moenie sê
nie"? (20)

BY THE COURT: Isn't that just an idiom, an Afrikaans idiom? Moenie so sê nie, it is really 'don't tell me, don't tell me that'. -- Well, that would be in Afrikaans. Here really I was expressing a sort of a confirmation that there are many people there and now we have to go .. (intervenes)

You are taken aback, you say don't tell me, don't tell me there are a lot of people. -- Yes, and then here now we have to go on with these (intervenes - inaudible - both speaking simultaneously) (30)

.... explain ... -- ... that's right.

MR/...

MR SOGGOT: And then you say:

"Ah nee ons gaan aan."

-- Yes.

And you repeat that. -- Yes.

And then you ask .. (intervenes)

BY THE COURT: Isn't that related to your expression, "ek sweet, ek sweet". "Sweet" means I am nervous.

MR SOGGOT: The question is what language he is talking there.

-- No, there "eh sweet, eh sweet", is nie sweet nie.

DEUR DIE HOF: Oh, dit is nie "ek sweet" nie? -- Nee, (10)
"eh sweet", that is ..

LAUGHTER

-- You see, I am just beginning to talk to him there, that is accused 3. I had been speaking to Bawa and he comes over on the line, that is accused No. 3 and he says :

"No man, I am all right."

And I say:

"A seat, a seat"

I say: alright, alright. Seat means alright. It is a form of greeting there." (20)

Well, one lives and learns.

LAUGHTER

MR SOGGOT: "Not as yet, not as yet.

Ja they're just milling around."

Now you have asked on page 2:

"Have the people been able to get inside into the, into the ..."

presumably into the stadium. Is that right? -- That is correct.

Now, why did you want to know that? -- Well, because we had not anticipated that the police would block the (30)
stadium and we thought that the people would get into the
stadium/...

stadium.

Then you repeat again:

"Ons moet aangaan."

And again a reference to a police army and then there is about 3 000 and then you say:

"Then sit on boys, daar is nie ander ding."

What do you mean by the words 'sit on'? Sit on boys. -- I am merely trying to inspire confidence into them that they should go there and see to it that our plans are carried (10) out.

They should go there? -- Well, at least I am talking here in the context of Muntu Myeza.

And then you talk about getting off and then you ask, on the next page, about 6 lines down:

"Tell me, waar's die ou van die press?"

What is that about? -- I am asking them where the press people are. As I indicated earlier on when we were at D.Q. we did discuss the question of the person - the manner in which accused No. 2 had stated that he had been treated unfairly (20) by the press. So I am merely asking there are the press people there and I say to them don't speak to the press people, because they will only take you out of context.

Then you say "don't talk..", yes, is that what you meant? -- That is right.

"Julle moenie met die press".

-- Yes.

Then there is a reference a little further down to "Gong". -- That is correct.

"ou Gong het julle dit gebel". (30)

Now Gong is? Who? -- Gong is the same man as China.

China/...

China, alias Dr Matsipa. -- Also Dr Matsipa. Gong there refers to - it is one of the old slang words also which refers to I think it is taken out from the fact that many Chinese have the surname of Gong.

And then:

"Oh hy het julle gevertel om te sê
daars baie mense."

And Lekota says:

"En hy't iemand gestuur."

And then you say:

(10)

"This is good

Right"

and so on. And then Harry Singh comes on the line. -- That is correct.

And he asks you:

"Listen you organising that thing for
me hey."

-- Yes.

And you say to him: you say you are busy and you say:

"You'll have to come round to the

(20)

ward."

That is on page 95, the top of the page -

"Because I'm doing in take."

-- That is correct.

What is that conversation about? -- Well, this was in the context of Harry Singh having asked me if I could arrange some treatment for him at the hospital. He had been to Lourenco Marques and he had engaged in some indiscretion and he thought he had contracted venereal disease and he wanted to see me in this context. So I said: come to the ward and I will attend to you. (30)

Now/...

Now, while we are talking about Harry Singh, did he ever ask you for I think a false medical certificate to show his employee? -- He had asked me for a medical certificate. This was at lunch-time when he came to the Doctors' Quarters and I told him that it was just impossible for me to give him a retrospective medical certificate, I cannot issue a retrospective medical certificate.

As a matter of fact, did you see Harry Singh on the 26th for example or the 27th September? -- Yes, I saw him.

He was still on 'vrye voet', he was still around (10) and you were as well, not so? -- He was around, it was before he was arrested. I saw him after the rally before he got arrested.

Yes. -- And there was not any discussion of a medical certificate, because I would not give him a medical certificate.

And just to complete your commentary on this tape, back to page 95, you ask him:

"Tell me uhm you've organised everything there?"

And Harry Singh says: (20)

"Ja we're just waiting for you know the communication we talked about."

You say:

"Good.
Ja."

And then you say:

"You've got the blaa blaas .."

Can you tell us what that is about? What is the communication you talked about? -- I think the communication there (30) refers to the fact that China went to inform them if there were

a/...

a lot of people. I think so. I could not be sure here because at the beginning of this telephone call Lekota tells me that China has phoned. I am not really sure, but I think he was referring to China.

And :

"You've got the blaa blaas .."

what does that mean? -- I was referring to the megaphone there, megaphones.

Is "blaa, blaa" code for megaphone or what? -- No, it is not code, it is just another name for a megaphone. (10)

Then would you turn to .. (intervenues)

BY THE COURT: What time more or less was this conversation? -- This conversation takes place in the afternoon, that is after they had been to my place.

Round about the time of the rally, because you are asking about the attendance. -- Yes, it should be.

About five o'clock or so. -- Maybe, or just before, yes.

MR SOGGOT: The next conversation is on page 96, that is the tape that the Defence asked for. Have you got that? -- That is right. (20)

What time did this conversation take place? -- This one took place after the rally.

You haven't got the time, you can't tell? -- I want to imagine it is around 6 o'clock, maybe 6,30.

Now just to cut through the preliminaries, accused No. 2 tells you that the police had cordoned off the place. -- That is right.

And you say:

"But waar's die mense."

-- Yes. (30)

And you repeat that and he says:

"Die/...

"Die mense they are scattered and they worked up emotion there and they are accused as onlookers."

Then you say:

"Were you able at least om iets te sê by die mense."

Is that right? -- That is right.

I do not know if that calls for an explanation, but you go on to say:

"But couldn't you say anything except Chads(?) Power(?)." (10)

I am sorry, he says: he could not say anything except Chads(?) Power(?). -- That is correct.

Then you asked:

"But julle het die megaphone gehad."

-- That is correct.

"Hy was nie hoog genoeg."

Was that a question? -- It was a question.

And he says it was not possible, the people were singing and hurling insults at these pigs and so on. Then you ask: (20)

"Why didn't you start songs at least?"

And he says:

"We started songs."

Now how would the starting of songs have fitted into your perception of how things developed? -- Well, you see, the impression that I got from him was that the people were there and there was no particular leadership to them and I am asking him: why didn't you take charge of that crowd that was there. That is in essence what I am asking him there and (30) when I say: why didn't you start songs, I am merely trying

to/...

to ask that same kind of question to put himself in the position of authority over that crowd.

Then he says:

"The people are still there and we had something close to 2 000 people there."

And you say:

"Hulle sing ..."

-- "Hulle sing maar net."

".. maar net, hulle is te doene net ..."

and then:

(10)

"slogans en goeters."

-- Hmm. That is a question, yes.

And Myeza says:

"Just like that."

And you say:

"Moenie seker(?)."

And then you say:

"Ek sê jou man"

and you say:

"Nou sê nou ek sê gaan weer daar

(20)

terug man."

-- Yes.

Now why did you say that? Why did you want him to go back? -- At the beginning of this telephone call he gave me the impression that people are gathered there, there is not much order and I said to him look, you have got to go back there, you cannot leave the people there all by themselves, because in my own mind I thought that those people need to have someone in the position of leadership, someone who can disperse them, someone who can direct them. They cannot (30) just be left all by themselves there.

How/...

How does that explanation you have just given relate to the phrase a little bit further down:

"Ons moenie die mense alleen daar los
Muntu man."

-- That is the same thought there. I am saying look, we cannot leave the people alone there. If anything untoward happens there, we will be responsible. It is therefore important and imperative that we must be there.

Just to take you back slightly, when you said:

"At least daar moet 'n ou.." (10)

have you got that? A few lines back - it is about 6 lines from the top of the page

"At least daar moet 'n ou .."

-- Yes, yes, yes.

Now that sentence is uncompleted. -- Yes.

What did you say or how would you have completed it? -- Well, what I was saying there is that at least there must be one of us there, because we do not want to leave the impression that so to speak we left the people in the lurch.

Then he says: (20)

"Daar's Alsations daar jy weet."

-- That is right.

And you say:

"Nee, nee, nie om te ingaan nie, but
at least daar moet een ou van ons of
twee ouens van ons is daar because jy
sien die reflection moenie wees.."

Now tell us what you mean by "nie om in te gaan nie"? -- Well, I am saying to not go back there to do anything, just go there to be in a supervisory capacity, to supervise that crowd (30) which is there. That is what I mean there. Because a little

lower/...

lower there I say:

"Ons moenie die mense alleen daar los
Muntu, man."

I say we cannot leave the people alone there.

And then you say .. -- Sorry. In essence I was saying
Muntu must be the last person to leave that area.

Yes,. and then you say:

"Kyk, in case just imagine Boet"

then again it is 'onduidelik', presumably you are both talking
into the phone. What were you expressing or what did (10)
you want to express there? -- I was again trying to emphasize
this point of his importance there that in that sentence I
suppose would have continued in this fashion that just imagine
these people are arrested or people are bitten by dogs and
then there is no one of us who is there to protect those people.
The entire line of thinking here was that we need someone there
in a protective capacity.

Then he goes on to say that it seems that the people have
been scattered and are no longer there. Is that right? -- That
is correct, yes. (20)

And then there is a reference to the press conference.
-- That is correct. I see that.

And you say in the middle of page 98:

"Net om te sê die mense se wil gaat om
te sê die ding moet aangaan en hulle was
daar en soos hulle gesien het ook die
mense het hulle ding gedoen."

You suggest that. Is that right? -- That is right.

What did you mean by that? -- Well, this was in the
context of his saying that we were going to tell the (30)
conference, the press conference that we had ..(inaudible) ..
the/...

the people not to be there and I say we would just tell the press exactly what happened.

And then just for clarity sake, about 6 lines down, or about 10 lines down, you say:

"Right, stuur daardie boysie."

Now what does 'boysie' or 'boyce' refer to? -- When I say there:

"Stuur daardie boyse hy moet my kom
haal omtrent 7 o'clock .."

what I am actually referring to and this is slang again, (10) I am saying send those guys to come and fetch me so that I may be present there.

In any event, you did not go to the conference. Is that right? -- No, I did not go to the conference.

Well, I have no further questions that I want to put to you in relation to that conversation, unless there is something you wish to add. I want to go on to another thing. -- No, there isn't anything I want to add on this.

At one stage a photograph was put in, I think through Captain Nayager, purporting to show you addressing a (20) meeting which he said took place on the Sharpeville commemoration at the Allan Taylor Residence I think it was. The photograph is I understand SASO B.1A. When was that photograph taken? -- Well, it is not a photograph of the meeting that Captain Nayager spoke about. This was a photograph taken at another meeting which was held at the Allan Taylor Residence and this particular meeting was to do with student protest. It was not at all connected with the ATR meeting. This here was in 1972.

BY THE COURT: Anyway, it had nothing to do with the (30) count which you are charged with. -- It had nothing to do with/...

with the count that I was charged with.

MR SOGGOT: Then, M'Lord, if the witness may be shown EXHIBIT SASO N, it is a newsletter - I am sorry it is GENERAL N. Would you turn to I think it is page 10 on your copy. -- That is correct, I have got it.

Can you tell us what those photographs there reflect? -- These photographs are the photographs of the ATR meeting whose transcript we have here and .. (intervenes)

Which took place when? -- Which took place on the 21st March, 1972. That is it is a different meeting from the (10) one at which that photograph was taken and these photographs that appear here are of the meeting at which I spoke and with which I was charged I think in count 3.

BY THE COURT: The photographs there relate to the meeting that we have been discussing just now, the one that the State testified about? -- Yes, the photographs here relate to that particular ATR meeting where Mr Nengwekulu spoke, here he is sitting there.

It is not the same as this - it has nothing to do with this occasion? -- No, no, no, that is right. (20)

MR SOGGOT: And can you by comparison of the microphone, for example, tell us whether that one photograph could have been taken at the ATR meeting? -- No, the microphones here are different.

Just hang on a minute. Thank you, sorry. -- The microphones are different, the audience here too is different. One can see that the audience on the photographs that appear in the SASO newsletter, the audience is seated down.

One other point. I do not want to go into too great a detail on this. I think Captain Nayager suggests that (30) at one stage the meeting in fact or the platform moved from
one/...

one point on the field to another during the meeting. What do you say about that? -- No, the platform did not move. It did start raining during the meeting, but people continued to sit on the sports field despite the rain.

BY THE COURT: Why didn't you move into the hall? -- Well, the rain started during Mr Koka's speech, it is there in the transcript and I think one can hear that he says that this rain is a blessing from our gods and we should receive it because it is on this important occasion and we should not go into - we should not leave this place, we should be (10) happy that it is raining onto us. And the people liked it and they sat there in the rain. It was not heavy rain, it was just a drizzle.

Just finally, I have asked you to prepare a list of those exhibits which you say you were aware of or had seen prior to your arrest in this case. -- Correct.

I wonder, with His Lordship's consent, whether you will just read that briefly into the record. -- Correct. The BPC documents that I knew before my arrest were: BPC.A.1, BPC A.2, BPC A.3, BPC A.3.A, BPC B.1, BPC B.2 - I think that (20) is the constitution if I am not wrong. I am not sure whether I know it in its final form as it is here in the court, but I do know at least the basis. BPC C.1, and then there are BPC. D.1 and D.2 I could have seen them, I am not too certain. BPC E.3 and BPC E.4. The general documents I knew were: BPC A.1, BPC E.1 - sorry, general, I am sorry.

Just start at the beginning of the general, you do not have to repeat that it is general, we will assume that. -- Yes. General A.1, E.1, K.1 - it is plus or minus, I could have seen it, I am not too sure - K.2 - plus or minus; K.4.A (30) plus or minus; K.3.A plus or minus.

When/...

the people not to be there and I say we would just tell the press exactly what happened.

And then just for clarity sake, about 6 lines down, or about 10 lines down, you say:

"Right, stuur daardie boysie."

Now what does 'boysie' or 'boyce' refer to? -- When I say there:

"Stuur daardie boyse hy moet my kom
haal omtrent 7 o'clock .."

what I am actually referring to and this is slang again, (10) I am saying send those guys to come and fetch me so that I may be present there.

In any event, you did not go to the conference. Is that right? -- No, I did not go to the conference.

Well, I have no further questions that I want to put to you in relation to that conversation, unless there is something you wish to add. I want to go on to another thing. -- No, there isn't anything I want to add on this.

At one stage a photograph was put in, I think through Captain Nayager, purporting to show you addressing a (20) meeting which he said took place on the Sharpeville commemoration at the Allan Taylor Residence I think it was. The photograph is I understand SASO B.1A. When was that photograph taken? -- Well, it is not a photograph of the meeting that Captain Nayager spoke about. This was a photograph taken at another meeting which was held at the Allan Taylor Residence and this particular meeting was to do with student protest. It was not at all connected with the ATR meeting. This here was in 1972.

BY THE COURT: Anyway, it had nothing to do with the (30) count which you are charged with. -- It had nothing to do with/...

with the count that I was charged with.

MR SOGGOT: Then, M'Lord, if the witness may be shown EXHIBIT SASO N, it is a newsletter - I am sorry it is GENERAL N. Would you turn to I think it is page 10 on your copy. -- That is correct, I have got it.

Can you tell us what those photographs there reflect? -- These photographs are the photographs of the ATR meeting whose transcript we have here and .. (intervenes)

Which took place when? -- Which took place on the 21st March, 1972. That is it is a different meeting from the (10) one at which that photograph was taken and these photographs that appear here are of the meeting at which I spoke and with which I was charged I think in count 3.

BY THE COURT: The photographs there relate to the meeting that we have been discussing just now, the one that the State testified about? -- Yes, the photographs here relate to that particular ATR meeting where Mr Nengwekulu spoke, here he is sitting there.

It is not the same as this - it has nothing to do with this occasion? -- No, no, no, that is right. (20)

MR SOGGOT: And can you by comparison of the microphone, for example, tell us whether that one photograph could have been taken at the ATR meeting? -- No, the microphones here are different.

Just hang on a minute. Thank you, sorry. -- The microphones are different, the audience here too is different. One can see that the audience on the photographs that appear in the SASO newsletter, the audience is seated down.

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When/...

When you say plus or minus you mean .. -- I mean I could have seen it, I may not have seen it.

And then the SASO exhibits? -- SASO exhibits: A.1, B.1, B.1.A, C.1, E.1, G.2, P.1, P.2, P.3.

CROSS-EXAMINATION BY MR REES: I would like to get some matters clear so that we understand what we are going to dispute about .. (inaudible) .. at all. Is it correct that as far as you are aware, SASO and BPC were concerned to bring about a fundamental change in the political, economic and social structure of the Republic? -- This was an (10) aspiration of SASO and BPC. And just to add on there, in the political concept when we said we want a fundamental change, what we wanted was simply democracy, adult suffrage.

Yes, we will canvass that in detail. The next point is, in doing so, in trying to achieve this goal, you proposed to work outside what you call the system and system created platforms. -- That is correct.

And also you proposed to apply pressure to the system. -- That is correct.

You regarded the police force as your enemy. -- Well, (20) inimical to our interests, political enemies, but not personal enemies.

If I understood your evidence correctly here, you suggested that the police did not perform their function with regard to the Blacks, but they persecuted them as a matter of course. -- This is in the context of Black people seeing the oppression as a brutality because the laws that the police enforce are extremely harsh and cruel upon the Blacks. They are laws which are oppressive upon the Black people.

I do not want a dissertation about the laws. I (30) just want to know, you regard the police as inimical to your interests/...

interests. -- Yes, but I think one could be clear there. Not a policeman per se as being inimical, but a policeman in executing oppressive laws.

But that is the police force as such. You see them as part or an extension of the system and as such inimical to your interests. -- Yes, they work for the system.

And as such you see them as inimical to your interests. -- That is correct.

And the courts as well you see them as being inimical to your interests. They are also a part of the system. (10)

-- Not exactly. We see the courts as having been constructed by a system in which we did not participate, a system which excludes us from power, but we do participate in the courts.

Well, you have got no option when .. -- Yes, yes, this is the point. It is a question of attitude, if you feel that you are excluded from a particular thing and you would not like to see it function that way because you would like to be included in the power structure. Therefore you express an attitude of not liking the way it is functioning.

In other words, you are opposed to the present (20) manner in which the courts function. -- I do not think that is exactly like that.

Well tell us then. -- Well, let us take me for example in my capacity as a doctor. I have to give evidence before the courts regularly about people I have attended to and so on and in that regard I do not see anything wrong in what I am doing. But the point here is what we are actually criticising is the system that excludes Black power from people - Black people from power, from the power in the country.

That is the political system. We are dealing just (30) with the courts. -- That is right. I want to illustrate that

we/...

we are not against the courts as an institution.

Well, we will deal with that, not against the courts. We are just clarifying the issues at the moment. You referred to the Whites as the enemy, almost as a matter of course. -- Yes, but there one has to be careful too. We are not referring to Whites in their personal capacity.

No, but you refer to Whites as such, as the enemy. -- We refer to the White system as an enemy.

And also you refer to Whites as Nazis. -- We refer to the White system as being - as having a Nazi-like plane. (10)

BY THE COURT: Authoritarian. -- As authoritarian.

MR REES: But the term you use is 'Nazi'. -- That is right. It might be used in certain documents. I do not think it is used all that regularly. But some people do refer to the system as such.

And you refer to the - you and your colleagues refer to the Whites as pigs. -- I do not think there is any basis for that, I do not think we have - what - I think what the word 'pig' means colloquially, it means policeman.

Oh. -- I do not think it refers to Whites per se. (20)

Pigs, would that be policemen and all those who enforce the law? -- It is a colloquial term to mean police, especially in their harsh application of the laws.

Well, it refers to the men, you just read a little while ago, when you and one of your friends were speaking on the telephone, you asked whether the 'pigs' were there, didn't you? In a telephone conversation you had. -- Yes.

Either you or he referred to the pigs. -- I am afraid you will have to point that out, because I did not see it.

Just bear with me a moment. You drew the Court's (30) attention to it. -- I do not think I saw it.

We/...

We will have a look. Or is it now so commonplace with you that you do not even see when you read it? -- No, no, I do not think that submission is correct.

Well, we will just have a look. I will find that for you just now and we can canvass that, the point of the pigs referred to by you. As a matter of fact I propose to canvass that a little more fully. Now, you refer to the Whites as the problem. -- Yes, we do refer to the Whites as the problem, part of the problem.

Yes. And you also refer to the Whites, to the (10) regime as an illegal regime. -- That is correct, we do. I think it is being used by some of our colleagues.

You agree that BPC and SASO were trying to build up a large support among the Blacks for themselves? -- Yes, BPC and SASO are trying to get a large number of people supporting them.

In fact they are trying to build up a Black power block. -- Yes, but if we understand exactly what this Black power block is about.

You must not worry about what my understanding is, (20) it is what His Lordship understands. The Black power block is what you are trying to build up. -- Yes, but there I have explained in my evidence-in-chief that it is a number ... (intervenes)

BY THE COURT: Collective. -- It is a collective number of people giving support to BPC and SASO. Primarily really to BPC because SASO is a ..(inaudible) organisation.

MR REES: Now these people, if you put to them that you have got an organisation that the government is inimical to their interests, is that what you do in fact propagate; isn't (30) that so? -- We do not propagate that the government is

inimical/...

inimical to the interests of Black people. We talk to Black people about a fact that they know, that the government is inimical to their interests and that is a point of departure for us to involve ourselves together with the Black community.

Your point of departure is the government is inimical to their interests. -- Yes, but this is something that is known universally in the Black community.

Whether it is known or not, that is the point that you people use as the starting point on the assumption that it is known. Is that so? -- It is not on the assumption that (10) it is known, it is factual that it is known.

How can a man know? How do you know what the average Zulu in Zululand knows? How do you know if you haven't spoken to him? -- It is because I am the average Zulu in Zululand.

You are not a Zulu, are you? -- I am not a Zulu ethnically speaking, but the point is that I have the same background as that man.

No, that is as good as me saying because I am White I know what goes on in the minds of all other Whites. You see, I do not and nor do you, I put to you. You do not know (20) what is going on in the minds of other Blacks. -- I think there are certain things which are common cause in the Black community. Every Black man grows up with .. (intervenes)

But how do you know what other Black men grow up with? You only know what these people who attend your meetings, think about. -- No, no, I am a Black man, I have always been a Black man, and I have spoken to Black people, I have lived with Black people long before the advent of SASO or BPC and long before my knowledge of anything of politics and I know this is how Black people see things. (30)

You started off as a member of PAC when? -- That was in
1959/...

1959.

'59. -- That is correct.

And you were active in securing support for them at your school, wasn't it? What school were you in? -- I was at Orlando High School.

Orlando High School. You even went to make speeches at Simville High School, didn't you, in 1959/60. -- No, that is not correct.

If you did not make speeches, you went there to give your support for PAC. -- Well, I was their supporter of (10) the PAC.

Yes. -- Myself.

And you tried to get other people to support PAC. -- Yes, but I did not make speeches on a public platform or anything of that nature, but I spoke to people.

You canvassed support for PAC. -- No, I did not canvass support.

Well, what did you do then? -- Well, it was not as if I was engaged in a process, trying to build up members for PAC. I was a supporter of PAC and when I met people, (20) I spoke to them about PAC. It was no special task of mine.

It was not a task, it was just something you voluntarily performed. Because you liked the organisation. -- Yes, I liked the organisation, but I did not go out to canvass support for it.

They were busy or their method was to seek confrontation, was it not? -- Well, loosely speaking, one could say yes, but I think one has to define what we mean. Their method was one of passive resistance.

And also of - what was their method with regard to (30) the passes, for instance? -- It was what would generally fall under/...

under the category of passive resistance, that is to say we are not going to carry passes, we surrender ourselves for arrest.

And you take your passes to the police station. -- You leave your passes at home.

And then you go to the police station .. -- You go to the police station and say: I haven't got my pass, you arrest me.

Was that in fact what was the basis of this incident in Sharpeville? -- The incident at Sharpeville was connected (10) with that.

People went there, was that under the auspices of PAC? -- That was under the auspices of PAC.

Did you also go there? -- No, I did not live at Sharpeville.

But this campaign was carried on then at other places as well, wasn't it? -- Yes, it was carried out at other places as well.

Was it all on the same day or on different days? -- It was all on the same day. It was a campaign of passive (20) resistance which started on a particular day and was to continue for some time.

And you yourself, to what police station did you go and demonstrate? -- I did not go and demonstrate. I went to surrender myself.

Yes, but it was not you alone. You were with many others, weren't you? -- That is correct. I was with some of my school mates and some other people from the township and we went to surrender ourselves at the Orlando Police Station.

Was this now on - this was part of the same campaign (30) that led to Sharpeville. -- This was on the 21st March, the same/...

same day that the shootings at Sharpeville occurred.

And you say in consequence of that the Pan Africanist Congress was banned? Or restricted or declared an unlawful organisation. -- Well, I do not know exactly what in consequence of it was banned, but I do know that it was banned during that same year.

Yes, but to your mind this must certainly have been one of the factors that would have been considered in declaring them an unlawful organisation. -- Except that I do not think reasons are given when an organisation is banned. (10)

No, no, it does not matter whether reasons are given or not. I want your understanding of it. I think I understood it that this particular campaign had led to the banning.

Now that campaign, this where they either confronted or passively resisted and went to the police and say now arrest us, that had led to violence. -- Yes, it had led to violence, it had led to violence.

I notice in some of these documents there is a reference to "there was a void in our political leadership since the early sixties". What did you exactly understand by (20) what did that term mean? -- It means that the organisations that represented Black people up to the 1960's had been banned.

Which are they now? -- It is the ANC and the PAC primarily. There were other organisations I think like the Indian Congress, the Coloured Congress which were banned or they died a natural death as a result of this 1960 episode.

I would just like to get some clarification, I am going off this point now. I would like to get some clarification. You said that the Black consciousness was of paramount importance to attempt to get the Blacks to view themselves positively. -- That is correct. (30)

Could/...

Could you just explain exactly what that means? How will you get them to view themselves positively? -- Well, I think I tried to explain at length here how we go about the process of conscientisation.

Could you just, in order to get it clear, exactly what is the end product of conscientisation? -- The end product of conscientisation is a man who views himself positively, who realises his worth, his identity, who can place himself in history, in the present, who can see into the future, who can see himself being able not only to receive from the (10) environment, but to influence the environment.

Now, how exactly does this process of conscientisation work? Could you tell us very briefly? -- Well, I attempted to explain here as to how it is put into practice and how it works. Even in a small scale, for instance I spoke of the project that we had at New Farm in the Inanda area.

... (inaudible - not into the microphone) -- That is right.

I did not quite understand how that business worked. Look, you say you go to this area, a slum area or (20) something like that. Isn't that so? -- Not necessarily a slum area; any area where there are Black people.

Yes. Now you go there and then you say you used some internal resources, methods. -- Internal resources, that is correct.

Is that just a term that you coined or is that some recognised method? -- No, it is not really a recognised method as far as I know. It is a term which we use and I use.

Now could you just describe to the Court exactly how this internal resources method works, what is the mechanics of it?(3) If I understand the position, you have got a lot of people, their/...

their living, they have got water available, they drink the stagnant water, so you see a well must be dug and things like that. Now, you are not going to say dig a well; they must say we are going to dig a well. Now that is what I would like you to explain to the Court, how you get these people to react that way. -- Well, in the first place it starts from the basis that these particular people have a potential in life and that for some reason or other they are not aware of their potential and they have not used their potential because circumstances around them have hemmed them in. (10)

We know that. I just want to know now what are you going to do when you arrive there. What is your plan of action? How are you going to arouse them? -- Well, first of all, as I was trying to say, it starts from that basis. So this is, I am going to inject potential into them, they have the potential themselves.

Yes. -- Now my aim when I come into contact with these people, it is to stimulate them to be aware of their potential.

How do you stimulate them? -- The starting point can be anywhere, but primarily it starts with getting themselves (20) to talk about their problems. That is the first step.

How do you do that? You see, I can see you arrive there, these people they prefer to go and sit around the beer pots or they prefer to lie about or whatever it is. Not so? -- Yes.

Right. Now you have come, you have arrived there, you have got to stimulate them to start doing something and thinking about their problems. That is what I want to know. -- I think there are a number of things that one can use as a starting point. Let us take for instance the project we had at New Farm. There we came in through the clinic and (30) we were working in the clinic and as you work with people in the/...

the clinic, you get to learn their problems, you get to know what their desires are. So you talk to them, you ask them to call their friends, you talk to their friends.

Now what do you tell them? Look, you want to plant the idea they must dig a well because it is the water that is making them sick. How do you get them to react? -- Well, you see, we must come together and see what we can do about this, and they come. There may be 4 or 5 initially and you start talking. Because they also realise that you are a person perhaps who has got certain skills, who has got certain (10) knowledge, then they say well, this man is a student and there is also the question that they have been in a morass for so long, nobody has been caring for them and the very fact that someone comes to talk to them .. (intervenes)

So you show them that you care for them. -- That is right.

So you have got their interest now. -- That is right.

But now you want to direct their interest to digging a well. What do you do? You must make either some suggestion or say something. -- No.

You are not going to say dig the well. -- That is (20) exactly what you do not say. You do not say let us go and start digging a well, you ask them their problems.

Isn't the position that you help them to define the problem? -- That is right, they define the problem.

With your assistance of course. You lead the discussions and what not so that they know now this is the problem. -- No, no, no, but you do not tell them their problems, because you probably do not know exactly what their problem is, but they come out with what their problem is and they simplify it for you. (30)

Yes, and then? -- And then together also you start
working/...

working towards a solution.

Yes, and then? -- And depending on how well equipped you are, you embark on the solution together with them.

Yes, but now you have had it. So now just tell the Court how exactly you manage to get these particular people to start thinking about we must dig a well. You see, it is not theory any more because you have done it. -- Yes.

So tell the Court how you did it. It is quite obvious that if you had not gone there, they would not have thought about digging a well. -- Yes. (10)

Right, now you must tell the Court.

BY THE COURT: How did you get the message across?

MR REES: That is right. -- That the well should be dug?

BY THE COURT: Yes, how do you motivate them to do it on their own? -- You try to get it from them. First of all of course you, as they tell you their problems, you point out to them without being obtrusive, that perhaps we could do this, perhaps we could do that, and as the discussion sympathises(?) itself, a solution comes out. It is not a question of not telling them. (20)

They have to work it out themselves. -- They work it out themselves. You merely act as a .. (intervenes)

Guide their thinking. -- As a catalyst.

MR REES: So in fact you have found that if you plant the right ideas, it will act as a catalyst and these people will act. -- Yes, but it is not as if you are planting ideas.

Allright, then you are nourishing the idea. -- The idea is there, it has got to come from them because if the idea comes from me it becomes a little self-defeating, it becomes a charitable kind of thing. (30)

BY THE COURT: You are then imposing yourself. -- Then you impose/...

impose, it becomes a charity.

MR REES: So the next thing is you found, if I understood you correctly, you found they were lethargic and they were full of diffidence and they lacked initiative and you managed to imbue them with a sense of purpose. -- Hmm - that is correct.

That is so. And you did that by indirect suggestion. Is that so? Or was it by direct suggestion? -- I think the description lies somewhere else, not in those two.

Well, you tell us please. -- We did so by stimulating them to use their own minds. (10)

Yes, but you stimulated that by suggestion, it must be suggestion, otherwise, if it is not suggestion, you tell the Court what it is. You stimulated them to use their minds. How? -- You see, let us go back again to the New Farm project. As I say we had all these diseases and so on and because we could diagnose the diseases, we said it is out of drinking bad water or something of that nature and the people say yes, we drink bad water here because the water that we drink is waste water from the sugar estates and it is stagnant water. So we say - I mean I am merely paraphrasing here - what (20) are you doing about it. They say well, we do not know what to do and so on. We say, you have got to do something about it because you are going to live in this area, the onus is on you, we cannot come here every week to come and cure every disease all the time. And the people start saying, well, we wanted to dig a well and we did not have the resources and so on. We say, why can't you go ahead and so on it builds on until ultimately a solution is reached. Of course as you do this kind of thing, you also discover ..(?) potential in that area. Some people amongst them will begin to have the (30) better suggestions and so on.

Isn't/...

Isn't this then in fact that what you are doing, was you opened their eyes to the problem when you made them realise what the problem was? Isn't that one of your first .. -- No, they know what the problem is.

They know it, but they do not realise it. There is a distinction between knowing something and realising exactly what .. -- Realising what they can do about it.

That is right. -- Yes, but they know the problem.

So your efforts were directed at making them realise what they can do. -- That is right. That they had the (10) potential.

And then urging them on to get down to it. -- No, once they discover the potential, they do it themselves.

Isn't that in effect the same basic approach that you had to this conscientisation? -- Well, in fact that is conscientisation.

You went out to these various communities and would it be correct to say that these were or some of the communities you went out to could be described as people with grievances? -- I have said the entire Black community have got (20) grievances.

But this particular lot, you see, you surely cannot have the same grievances a man who is living in a slum. You are Dr Mokoape who lives in Doctors' Quarters and you have had an education and you had a lot of benefits which you say these people did not have. So your grievances and theirs cannot be the same, can they? -- Our differences do not differ in degree, they may differ in kind, but I have a number of grievances just as much as they have grievances too.

Yes, their grievances are more the conditions in (30) which they specifically find themselves. Your grievances are more/...

more of an intellectual kind. -- My grievances are not of an intellectual kind at all. My grievances are basic interests, I think my grievances are just the same as the grievances of those people.

What are your grievances? Let us hear them. -- If I spoke of my grievances I think I will speak the whole week.

Well, just start now. Perhaps by one o'clock you might ... (intervenes)

BY THE COURT: Summarise them.

LAUGHTER

(10)

-- My grievances are simply that I have not the right to determine my life. I have been excluded from those structures which govern the lives of people and that .. (intervenes)

MR REES: You see, I am in the same boat as you are. -- No, you cannot be because you vote, after every four years you go and cast a vote.

That vote has not been of much use. Once they go to parliament they do what they like. -- No, no, it is definitely of use because you can organise a number of people with similar grievances as you and you can out-vote those (20) other people who are in parliament if you do not want them.

That is just a theory. -- It is not a theory. I cannot even do it and when I do organise I get charged.

LAUGHTER

Yes, carry on. -- But the grievances are simply that we are excluded from power and secondly, that what laws emanate from the White superstructure are extremely harsh.

Why do you call it the White superstructure? Why don't you refer to it as the government? -- It is because no Black man has ever sat in the House of Parliament as far as (30) know.

It/...

It still does not affect the position. Why do you use the term superstructure? -- Well, superstructure is part of the .. (intervenes - inaudible) .. machinery.

BY THE COURT: The power structure. -- The power structure, yes

MR REES: Yes, well, why do you also use the term power structure? Why don't you use the term government? I will tell you why, because it has got an emotional appeal to the Blacks when you use this term, isn't it? -- No, I think you are misled, you definitely are misled.

Otherwise you say the government. -- No, you (10)
definitely, in fact I think if we use the government, which is a term they know better, it would have more appeal to them.

Who? -- To Black people.

Why then do you use the term power structure? -- It is just vocabulary. It probably emanates from the students' campuses.

BY THE COURT: They have the power. -- They have the power and there is a structure and they are Whites.

LAUGHTER

MR REES: O.K., carry on. You were busy with your (20)
grievances, I just took you off the tracks a little bit. -- Well, I have summarised the grievances as being that we are excluded from power and the laws that emanate from that power are extremely harsh and cruel upon Black people and that they affect Black people, as I said the other day, from the crib to the grave and every single minute of the day a Black man is subjected to these very harsh laws and I, as much as the man at New Farm is subjected to these because I carry a pass, I have to carry a pass. If I do not have it, they stop me in the streets, they lock me up. (30)

Let us pause a minute. Now you say you have got to carry

a/...

a pass. -- That is right.

BY THE COURT: Just to follow up Mr Rees's point. You say if you have a vote, well then you can have a say in the government. -- Well, I am not really proposing that
(intervenes)

I just want to show you how it works. There was an election on in Natal. -- Yes.

Now, I suppose the Nationalist Party wanted to win the vote, so they organised very hard and they did not get it. So even if you have machinery behind you to attain (10)
something, it does not necessarily come about. -- No, the problem I think there was that the Nationalist policy did not appeal to the people of Natal, because they feel that the Nationalist policies are .. (intervenes)

Well, that is a different matter. You are talking about the vote. -- Yes.

If you have the vote, you must have the right policy too otherwise you do not get in either. -- That is right. That is your grievances must be real and they must be shared by the majority of people. (20)

MR REES: If you cannot share them, what then? If the other people do not share them or they do not want to vote the same way as you do? -- Well, the principle of democracy obtains that it is a government of the majority by the majority for the majority.

BY THE COURT: Yes, that is what they say, but the point is you must be on the right side otherwise it is useless. -- No, I do not .. (intervenes)

You must be with the majority, if you are not with the majority, well, then it does not help you. -- No, I do (30)
not think so. I mean, there are many countries where
governments/...

governments change hands... (intervenes - both speaking simultaneously)

... I suppose the Liberals would like to govern Britain and they cannot. -- Well, I suppose it is because the Liberals' policy is not very different from maybe the Labour Party.

That may be so, but they have their policies, and they have the vote and it does not help them at all. -- Yes, but I think society has to be structured in such a way that it is for the greatest benefit for the greatest majority.

It should be, yes, but does it work out that way? (10)
-- Well, I think that, well, attempts are always being made to make this kind of thing work. The western .. (intervenes)

And you want to join in the attempt. -- We want to join in that attempt, that is the point, that is the point.

LAUGHTER

MR REES: But now you say because you are excluded from this power structure for being able to partake in this power structure, is that your big grievance? -- That is our biggest grievance. And of course the fact that from this power structure there emanates these very harsh laws which (20) we perceive as oppressing us.

Now you see, every man who is touched by the law considers it to be harsh. -- They can .. (intervenes)

Now what is a harsh law? -- A harsh law?

Yes, which laws do you say are harsh laws? -- Well, first of all a harsh law is one which is applied differentially.

Which laws are applied - oh, then it is not the law that is harsh, it is the application. Now which laws are applied differentially? -- All the laws of this country are applied differentially. The South African constitution is built (30) on the fact that Whites only can sit in parliament and that

is/...

is the basic .. (intervenes)

No, but I would like you to elaborate on this. How are the laws applied differentially?

BY THE COURT: I think you are probably at cross purposes as to the language used. You do not mean that it is applied differentially, it means that it is not applied equally. -- I mean that it is ... (inaudible - intervenes - speaking simultaneously)

It does not operate equally. -- Yes.

And it is applied - I mean you can only apply a law (10) according to its context. But you say that the laws are not made to treat all people equally. I think that is what you really want to say. -- Yes, well, what I mean is that there are laws in this country which are made for White people and there are laws in this country which are made for Black people and that already is a differentiation.

Yes, well, that is in the making of the law. -- That is right. And that therefore those laws which are made for Black people .. (inaudible) .. become harsh because they are not made by Black people for Black people, ipso facto. (20)

MR REES: Yes, but now, if I want to go into Ga-Rankuwa or one of these places, I have got to get a pass, haven't I? -- But you have made the choice that you should not go into Ga-Rankuwa. It is the White people who have said that they should not go into Ga-Rankuwa, the Black people did not ... (intervenes)

You say I made the choice, I did not make it. -- It is White people, the Whites, your vote has made that choice for you.

LAUGHTER

(30)

BY THE COURT: Well, how do you know that? This is the point I am/...

am trying to make. Mr Rees might have voted against the policy which stands for that. -- Yes, but .. (intervenes)

On your first point now, the Nationalist Party is in power and so they represent the policy of the majority of the Whites. -- That is right.

As such. -- That is right.

But yet the man who lives in Durban North, he has a vote but he cannot share in that. -- Yes, that is something he cannot do anything about, because he is part of that structure. For instance if, like the government .. (intervenes) (10)

But he is in the same position as you are because he has a vote, but he cannot use it. -- No, he cannot be in the same position as I am.

His representative was elected to parliament and he can go to parliament and his vote is useless in parliament because the majority will out-vote him. -- Well, I do not think he is in the same position as I am. He is probably is in the minority in the White community, but I am sure if I were allowed to organise and I were allowed to bring up a party to stand against the Nationalist Party, I will kick them out, (20) they will be kicked out.

LAUGHTER.

Yes, but you see, you have got so many constituencies, you have got to kick them out in every constituency. -- That is right, I am sure in all the constituencies they will get kicked out. They will be kicked right out.

THE COURT ADJOURNS.

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