

House not known 26A Exhibit "C"  
Mistaken into going out  
of country 29 exp "A" - 30.

CASE No. SHJ.228/63

6th SEPTEMBER, 1963

THE STATE VERSUS HENRY MOTGO THI

CHARGE : LEAVING REPUBLIC WITHOUT A PASSPORT

BEFORE : MR. B. OLIVIER

FOR THE STATE : W. MARINUS

FOR THE DEFENCE : ADV. D. SOGGOT

TOLK : F. O. WALDECK

DIE HOF: Hierdie saak is terug verwys na hierdie hof vir doeleindes van vonnis deur 'n landdros anders as die landdros wat die saak verhoor het. Dit het gebeur na bekragtiging deur die Hooggeregshof van die bevinding, en na ter syde stelling van die vonnis. Ek het die verrigtinge ge lees wat aanleiding gegee het tot die skuldigbevinding. Beide die Staat en die Beskuldigde het die reg om enige getuienis wat hulle wens aan te voer i.v.m. vonnis aan te voer.

DIE STAAT ROEP

PIET ADAM COETZEE, v.o.e.

- Woon jy in Johannesburg? -- Johannesburg, ja.
- Vir wie werk jy? -- Essop Suleman.
- Watter werk doen jy? -- Drywer.
- Wat dryf jy? -- Volkswagen Combi.
- Wat is jou werkgewers se besigheid? -- Pilot taxi.
- Is jy bekend met die African National Congress organisasie? -- Ja, meneer.
- Hoe het jy bekend geword daarmee? -- Deur ek hulle ry.
- Kan jy vir ons verduidelik wat jy daarby bedoel - dat jy vir hulle ry? -- Ja, omdat ek hulle uit ry vergaderings toe, Lobatsi toe, uit gaan na enige meeting wat hulle iewers gaan.
- Hoelank het jy al nou persone van die A.N.C. vervoer? -- 'n Hele paar maal.
- Waarheen het jy hulle oral geneem? -- Na verga, ek

2. /...

het hulle na meetings toe gevat, Durban, Swaziland, Lobatsi en Johannesburg.

Hoe het jy hulle na Lobatsi toe geneem? -- Lobatsi ek het hulle gevat, deur al van dinges, Lobatsi toe en van Lobatsi af dan gaan hulle verder. Dan gaan hulle as, dan gaan hulle verder uit as soldate.

Neem jy hulle in daardie geval net tot op Lobatsi? -- Net tot op die borders, van Lobatsi, oor die Republic.

Hoeveel keer het jy persone van die A.N.C. geneem tot by die grens van Bechuanaland? -- Hele paar maal. Van laas jaar Junie af.

Het jy enige persone geneem vir die A.N.C. Februarie 1963? -- Ja.

Hoeveel persone het jy toe geneem? -- 37.

Waar vandaan het jy hulle vervoer? -- Van Johannesburg af.

Vanaf watter plek in Johannesburg? -- Van Marabi garage af, na Mkuzi. Maraba garage tot op die hoek, na die locations.

Is die posisie dan dat jy hulle by verskeie plekke -- Verskeie plekke opgetel.

Het jy 'n gids gehad op hierdie rit? vanaf Johannesburg na die grens? -- G'n

'n Guide? -- Guide, ja, ek het 'n guide gehad.

Wie was die guide? -- Dit was Mbata en Joe Modise.

Wie is daardie persone? -- Dit is twee leiers ook van die A.N.C. Die een Mbata is so te sê die kaptein, want hy vat hulle in.

DIE HOF: Wie is die kaptein? -- Mbata. Hy is die voorloper. Joe Modise is een van die organisers.

DIE AANKLAER: Waarmee het hulle die betrokke geleentheid gery? -- Hulle het met 'n kar gery, 'n privaat kar.

Waarmee is die 37 persone vervoer? -- In die Combi.

· Hoeveel? -- Drie Combis.

· Wie het jou opdrag gegee om hierdie rit te onderneem?

-- Essop.

· Hoelaat het jy die mense opgelaaï? -- Ek het hulle beginne laai van half past seven tot agtuur.

· In die aand of die oggend? -- Die aand.

· Was dit Bantbemans gewees? -- Bantbemans.

· Weet jy of die beskuldigde onder hulle was? --

· Beskuldigde was 'n passasier.

· Hoe het julle toe gery? -- Ons het deur van Namkuzi af, toe weer van Mdube af toe op Laledi, en van Laledi af tot op Rogers gaan ons deur Roodepoort toe.

· Julle het tot anderkant Zeerust gery? -- Tot 'anderkant Zeerust.

· Hoever van die grens af het julle stilgehou? -- Omtrent 'n myl of twee.

· Wat het van die 37 passasiers -- Hulle het daar uit geklim en weg geraak daar tussen die bome.

· Het hulle enige iets by hulle gehad toe hulle daar uit klim? -- Hulle het niks gehed by hulle nie.

· Geen bagasie nie. Wat het van die kar geword -- Die kar het hulle daar gelaat staan.

· En julle is toe terug Johannesburg toe? -- Johannesburg ja, meneer.

#### KRUISONDERVRAGING DEUR DIE VERDEDIGING

· Vir hoelank werk jy vir mnr. Essop? -- Ek werk omtrent vier jaar.

· En jy werk as drywer, né? -- As drywer.

· Jy sê jy het mense al tevore geneem Durban toe né? -- Durban, Swaziland.

· Het jy self mense na Durban geneem? -- Durban het ek net een maal gery.

· Hoeveel mense het jy Durban -- Tien.

· Tien? -- Tien.

· En het mnr. Essop jou gesê dat jy moet -- Ek het my instructions van hom af.

· Wie het mnr. Essop instructions gegee? Weet jy? -- Ek weet nie. Hy gaan na die mense wat hom huur, Walter, Sisulu. Ek het eendag gekry met Walter Sisulu staan en praat, buitekant.

· Hulle staan en praat buitekant? -- Ja.

· Maar was, jy, het jy gehoor waarvan hulle praat? -- Nee, ek het nie gehoor nie.

· Maar mnr. Essop nie vir jou gesê vir wie julle doen hierdie werk? -- Hy het my net gesê ons doen dit vir die A.N.C.

· O. Elke keer? -- Hy het net gesê dis 'n job van die A.N.C.

· Het hy dit gesê elke keer? -- Hy sê dit nie elke keer nie, hy sê net: "Julle moet mense optel van Makosa af. Julle moet hulle in die location gaan optel."

· En is dit al wat hy sou gesê het? -- Ja.

· Daar's 'n job? -- Daar's 'n job.

· Het hy jou ooit gesê hoekom die mense, byvoorbeeld Durban toe wil gaan? -- Dit het hy gesê is vir 'n vergadering.

· Mmm? -- Vergaderings.

· Wie het so gesê? -- Essop het vir ons gesê, vir my gesê. Ek wou geweet het waarvoor gaan ons.

· Hy het jou so gesê. Hoeveel keer het jy na Lobatsi toe gery? -- Lobatsi toe het ek 'n hele paar maal gery.

· 'n Hele paar maal? -- Ja.

· En het jy elke keer jou opdrag van Essop gekry? -- Ja.

· Toe jy getuienis op 'n vorige geleentheid gegee vandoegend het jy gesê dat al wat jy geweet het die mense gaan in na Rhodesia. Is dit reg? -- Ja, so Rhodesia toe. Dis al.

· Is dit al wat jy gesê het? -- Dis al wat ek weet

daar van die borders af gaan hulle in. Toe sê hulle vir my hulle gaan hier van af na Rhodesia toe. Hulle het nie gesê waarvoor gaan hulle nie.

Ja. In ander woorde jy het nooit geweet wat hulle doeleindes was nie? -- Nee, ek weet nie wat se doeleindes gaan hulle uit nie.

Mnr. Essop het jou ook nooit nie gesê nie, né? -- Nee.

Het jy ooit mnr. Essop gevra? -- Ek het hom gevra.

Hy sê net ek moet net die mense vat en aflaai by die borders.

Het hy gesê hy weet nie wat hulle besigheid is nie?

-- Nee, hy het nie vir my gesê. Hy het altyd saam met my broer gepraat.

Ja, maar het jy gevra? -- Nee, ek doen net die werk.

Ek het hom niks gevra nie. Hy het my net gesê om hulle weg te vat.

Maar elke keer jy ry mense na die border. Het jy nie mnr. Essop gevra? -- Nee, ek vra nie questions nie.

Jy vra nie questions. Jy het questions gevra toe jy hulle na Durban toe gevat het. -- Ja, dit het ek gevra, because ek het nie geweet waarvoor gaan hulle.

En mnr. Essop het jou ook nooit gesê hoekom hulle wil gaan nie? -- Nee, al wat hy my gesê het is die tyd wat ek hulle in vat Lobatsi toe vir vergaderings. Dit was laas jaar in Junie.

Hy het vir jou gesê jy moet hulle na vergaderings -- Ja, ek het alleen gegaan.

Jy het alleen gegaan? -- Ja, die Vrydag gegaan.

En daarna het hy jou weer gesê jy moet hulle vat vir 'n vergadering? -- Hiervanaf het ek gegaan Lobatsi toe vir 'n vergadering. Daarvanaf toe moes ek hulle net aflaai by die borders.

Nee, maar kyk, na Junie wanneer het jy weer met hulle

gegaan -- Junie, wel ek kan sê ek het elke maand gevat.

Laat ons Augustusmaand vat. Het hy jou gesê jy moet mense na die border toe vat? -- Hy het my gesê daar is 'n load uit.

Daar's 'n? -- Daar's 'n vrag uit, van die A.N.C. om weg te vat.

Weg te vat. Het hy vir jou gesê dis vir 'n meeting? -- Hy het my nie gesê dis vir 'n meeting. Ons moet hulle net dropby die grens, by die borders.

A  
Het jy hom gevra hoekom wil hy die mense na die borders toe vat? -- Nee, ek het hom nie gevra nie. Hy het gesê ek moet hulle net by die borders drop, en daar moes ons omdraai. Daar vanaf sal hulle self sien waarheen.

Was jy nie geïntereeseerd om te weet? -- Nee.

Tot vandag weet jy nie hoekom hulle na die border toe gaan. -- Nee, ek weet nie waarvoor hulle soontoe gaan nie.

Ja. Sien, ek wil dit aan jou stel dat, dis miskien 'n bietjie eienaardig dat jy nie nuuskierig was nie, en nie mnr. Essop gevra hoekom wil hierdie mense na die borders toe gaan. -- Nee, ek is net drywer, is nie werklonig nie. Ek het nie binne in die kar met een van hulle gesels nie dat hulle kon sê waar gaan hulle heen.

Het jy gedink dit was vir 'n meeting? -- Wel, ek vat hulle altyd in vir meetings.

Ja. Kyk na daardie tyd het jy altyd gedink hulle gaan vir 'n meeting? -- Ja. Die tweede keer wat hy my sê het ek gedink dis ook vir 'n meeting.

O. -- Hy sê vir my nee, drop hulle net by die grens. Ek gaan nie in nie.

In ander woorde was daar 'n hele paar keer wat hy gesê het hulle gaan vir 'n meeting. Ander tye het hulle nie vir jou gesê hoekom hulle gaan. -- Baie maal het hulle nie my gesê hoekom gaan hulle. Dat ek van dinges af, agter die meeting

glo Juniemaand gehed,                      gewees het, toe het hulle gesê ons gooi, gooi hulle net af by die grens; daar vanaf gaan hulle verder in Rhodesia toe, want hulle

Ja, kyk van Junie af tot Februarimaand in '63 het mnr. Essop jou op 'n paar keer gesê: "Vat hierdie mense na die border. Hulle gaan vir 'n meeting," en ander tye het hy niks gesê nie. -- Hy het net gesê vat hulle. Ek ry saam met my broer. Ek ry nie alleenig nie. Dit is altyd twee Combis, partymaal drie.

Hoeveel keer het hy vir jou gesê hulle gaan vir 'n meeting. -- Hy het my net Juniemaand gesê ek moet die klomp weg vat vir 'n meeting.

Juniemaand? -- Ja, en daarvanaf het my net gesê: Jy vat die klomp. Jy los hulle net by die borders. Julle gaan nie in nie.

Julle gaan nie in nie. -- Ja.

Maar het jy hom gevra: Is hierdie nou ook vir 'n meeting? -- Nee, ek het hom gevra. Hy het gesê hy weet self nie waarvoor is dit nie.

Jy het hom gevra hoekom gaan hulle en hy sê hy weet self nie. Is dit die posisie? Hy sê hy weet self nie. -- Hy weet self nie. Of hy dit weet, aan sy praat, dit weet ek nie.

Maar hy het so gesê? -- Ja, vir my het hy gesê hy weet self nie.

Was dit nou in Julie of Septembermaand toe hy dit gesê het? -- Sê maar daar August, September.

August September. En toe hierdie besigheid weer begin dat jy mense weer vervoer het hy, ook gesê hy weet nie? -- Hy het ook gesê hy weet nie.

Hy weet nie. -- Ek weet net Desembermaand(?) wat sy broer in gegaan het na Francistown met 'n klomp.

Ja. So, in ander woorde al hierdie tye wat jy die

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mense vervoer na die border, die eerste keer in Junie '62  
het hy vir jou gesê dat hulle wil na 'n meeting toe gaan --  
(gelyk) in gevat.

Maar die ander tye toe jy gevra het het hy gesê hy  
weet nie hoekom hulle gaan. -- Ja.

HOF VERDAAG.

Daardie aand in Februarie toe jy mense opgelaai het  
jy het een van die Combis bestuur, nie waar nie? -- Ja.

Nou, kan jy onthou watter mense in jou Combi was? --  
Ek kan onthou, ja.

Elkeen van hulle? -- Nee, nie ieder een nie, maar  
daardie wat ek geken het en wat ek gesien het.

En die mense in die ander Combis het jy hulle geken?  
-- Wel, daar was 'n paar wat ek ook ken.

Net 'n paar in die ander? -- Ja.

In die ander Combis? -- Ja.

Nou, waar het jy die beskuldigde eers gesien? --

Die beskuldigde Motgothi?

Ja. -- Die beskuldigde het ek al gesien in die dorp.

Ja, maar het jy hom daardie aand gesien? -- Ek het hom  
daardie aand gesien, ja.

In watter Combi het hy in gegaan? -- In my Combi.

In jou Combi? -- Ja.

Is jy seker daarvan? -- Ek is seker daarvan.

Waar het jy hom opgelaai? -- Ek het hom opgelaai,  
ek weet nie wat is daardie location waar ek hom opgelaai, een  
van die locations.

Maar jy weet self nie watter location nie? -- Nee,  
because ek het hom op die pad gesien wat ons ry.

Het jy voor daardie dag met die beskuldigde gepraat?  
-- Nee.

Is dit die eerste keer daardie waand wat jy hom gesien  
het? -- Nee, dis nie die eerste keer nie. Ek het hom 'n paar



maal gesien, maar ek het nie met hom gepraat.

· Het jy sy naam geken? -- Nee.

· Jy het niks, geen ander besonderhede van hom geweet?

-- Nee.

· Watter werk hy doen, of -- Ek weet nie wat se werk hy doen.

· Waar hy bly of so iets. -- Nee.

· Ek stel dit net aan jou dat jou getuienis i.v.m. die oplaai van die beskuldigde nie die waarheid is nie. -- Wel, ek sê dis die waarheid.

· Defence addresses court re points it is attacking.

HERONDERVRAGING DEUR AANKLAER

· By watter plekke het jy beskuldigde -- Ek het hom in die dorp gesien. · Ek het hom in die dorp gesien by Nkoza house.

· Wat gebeur by Nkoza house? -- Dit is waar hulle office is.

· Wie se office? -- Die A.N.C.

· Hoe dikwels het jy hom daar gesien? -- Wel, as ek so sien, so paar maal sien ek hulle daarso, dan gaan ek verby. Party maal ry ek met my kar so ver soos Orlandos.

· Het jy die aand toe jy 37 tot by die grens gevat het met beskuldigde gepraat, of met die mense binne in die Combi gepraat? -- Ek het saam met hulle gesels.

· Saam met hulle gesels. -- Saam met, sommer net Joe Sammat.

· Terwyl julle gery het? -- Ja, toe vra ek nog: · Hoe ver gaan julle? · Toe sê hulle vir my hulle gaan so, daarvan af waar hulle gaan af klim gaan hulle daarvanaf vorentoe, van Lobatsi af gaan hulle deur Rhodesia se kant toe.

· Het hulle gesê waarheen hulle gaan? -- Party het gesê hulle gaan college toe. · Party het gesê well, hulle gaan Tanganyika toe, wel toe vat ek hulle nie baie dinges nie

want ek het gemeen well hulle is nou weg; ek laai hulle net af. Ek neem nie baie notisie van hulle nie.

A  
Het jy geweet vir watter doel die mense gaan? --Nee ek het nie geweet vir watter doel gaan hulle nie.

Het jy geweet vir watter doel enige van die ander groepe gegaan het? -- Ja, die ander weet ek, want hulle't gesê hulle gaan om te, gaan om te gaan leer vir soldate.

Waar het jy dit verneem? -- In die kar, in die Combi. Baie wat ek gery het, hulle het gesê hulle gaan vir training, soldate, ander het gesê hulle gaan college toe.

Het hulle gesê wat se training? -- Toe vra ek hulle, toe sê hulle hulle gaan leer om soldate te wees. Een van my vriende was ook nog saam met hulle daar. Gerald Lockman.

Wie? -- Gerald Lockman. Cecilia se suster se kind.

Wanneer was hy saam? -- Hy ry altyd saam met die dinges, hy het saam met my nog in November gery. Hy het saam met my August ook gery. Toe was hy ook saam met my.

ESSOP AHMED SULEMAN, s.s.

Do you live at Johannesburg? -- Yes, I do.

Do you have a business there? -- Yes, I operate a taxi service.

Do you know the A.N.C.? -- Yes.

Have you been associated with it? -- I have been associated with them in so far as conveying the passengers are concerned.

Since when have you conveyed passengers for the A.N.C.? -- For the past four to five years.

To what places did you convey passengers for the A.N.C.? -- Durban, Pietermaritzburg, Capetown and to Lobatsi.

And? -- Lobatsi.

When did you convey passengers to Lobatsi? -- From June last year.

Were the passengers actually conveyed to Lobatsi itself? - Yes.

In February 1963 did you convey any passengers for the A.N.C.? - Yes.

By whom were you engaged? - Walter Sisulu.

Who is he? - He is a leader of the A.N.C.

When did you meet him? - I met him in June last year.

Have you been previously engaged by Sisulu to convey passengers? That is previous to February of 1963? - Yes.

What number of passengers did you convey in February '63? - 37.

Were they Bantu males? - Yes.

Where were they to be conveyed from? - From Johannesburg.

To where? - From Johannesburg to the border of Lobatsi.

Is that the border of Bechuanaland? - That's right.

On the border.

When were these people to be conveyed? - In

Volkswagen Combi bus.

When were they actually conveyed? - In February.

During the day or in the evening? - In the evening.

What time were they picked up? - It was approximately about six o'clock.

In the morning or in the evening? - In the evening.

Where were these persons picked up? - From Marabi Garage. From the location.

One point or at various points? - Various points.

How many Combis conveyed them? - Three Combis.

Was there a guide for the Combis? - Yes. Joe Modisi and Mbata were the guide.

Are those two persons associated with the A.N.C.? - Yes.

Can you tell us what their positions are in the Congress?

-- They used to be with Walter Sisulu in the office.

They helped Walter Sisulu in the office, and they were the people to get the people in the Combi.

Did they organise transport? -- That's right.

THE COURT: Who is Walter Sisulu? -- Walter Sisulu is the leader of the .A.N.C.

THE PROSECUTOR: Did you see to it that the 37 persons all boarded the Combis? -- Yes.

Did you accompany the Combis any further? -- No.

Did they then depart for the border of Bechuanaland.

When did the Combis return? -- They did return the same, the early part of the morning.

The following morning? -- The following morning.

Do you know for what purpose these people had been taken to the border? -- Yes, Walter Sisulu said that they are going to Kenia and Tanganyika to become soldiers.

Had other groups been conveyed by you similarly?

From Johannesburg to the border. -- Yes.

On approximately how many occasions? -- On approximately seven or eight occasions.

Seven? -- To eight occasions.

On those occasions were you also engaged by the A.N.C.? -- Yes.

What is the purpose of those other persons leaving the country? -- To go to Kenia and Tanganyika to become soldiers.

You have a contract price between you and the A.N.C. in regard to transport? -- Yes.

What was that? -- R50 for a Combi.

Was that an agreed price which applied in all cases? -- Yes.

Do you know the accused at all? Never seen him before?

Thank you.

CROSS-EXAMINATION BY THE DEFENCE

When Walter Sisulu employed you did he tell you that it was on behalf of any particular organisation? -- Well, he never mentioned about any particular organisation. I was only doing work for the A.N.C.

I'm asking you did he ever indicate that you were being employed for the A.N.C. to do transport? -- No.

So as far as you are concerned Sisulu alone was the person who employed you? -- Sisulu was the sole person who employed me to convey these passengers.

Convey passengers? -- Yes.

You didn't know whether it was for the A.N.C. or whether it was for the Scout movement? No one told you about any organisation. -- No. Only thing, I was introduced by Kathrado that Walter Sisulu is the leader of the A.N.C. If I need transport he will get in touch with me.

Yes, but subsequent to that conversation -- Well I wouldn't know

Walter Sisulu never told you that it was for any particular organisation? -- No, he just merely told me I must, he needs my Combis to convey so many passengers to go to Kenia and Tanganyika.

Yes, but he never mentioned any organisation? -- No, he never mentioned that it was Pan African ..

So you don't know on behalf of what organisation it was done? -- Well, I don't know on what behalf. All I know is Walter Sisulu engaged me. That is all.

When why is it that you told my learned friend, or told the court, that you did this for the A.N.C.? -- Because he was the leader of the the A.N.C.

In other words you just thought this was for the A.N.C. -- Yes.

I see. Now, look, at this stage did you know whether

the A.N.C. was banned or not? -- Well, I don't remember when the Government banned the organisation, whether it was, maybe a month or whether it was a year ago. I don't remember.

Are you serious? -- Absolutely.

You have know the Congress for four or five years, you say. - Yes.

And you mean to say you don't know when it was banned? -- I couldn't say when it was

And you mean to say that at no stage when you gave lifts for Walter Sisulu you didn't realise that the Congress was banned? -- Well, I knew the Congress was banned by the Government, but then there is no point in me saying a year ago, three years ago. I don't know the exact date.

You man, are you saying that when for instance you acted in June and transported people in June 1962 you didn't realise that it was a banned organisation? -- I never gave thought when it was banned.

You at no stage thought about it being banned.

Is that what you said? -- Yes.

In other words all these months you have been taking people whom you considered were Congress people around the country.

-- Well, I never considered anything. I was introduced, Kathrada introduced me to Walter Sisulu as the leader of the A.N.C., and that I am to convey these people to the border.

Look, please don't repeat that story again. You have repeated it three times. I'm asking you, didn't you in your own mind

THE COURT: He is replying Mr. Soggot. You can't prevent him from replying. -- I'm trying to get the more relevant reply from him.

THE DEFENCE: At the stage when you acted and transported people on instructions of Walter Sisulu did you or did you not consider that these were A.N.C. people? -- Well, I knew

that Walter Sisulu is a leader of the A.N.C. and that he wanted me to convey the passengers.

Did you or did you not consider that the passengers were A.N.C. people? -- Well, I had nothing to do as far as the passengers are concerned. I had only to do with Walter Sisulu,

Mr. Essop, - and the money he was supposed to pay me.

Mr. Essop, I have asked the question 20 times, but I am asking you for an answer. Did you or did you not consider these people were members of connected with the A.N.C., the people you transported? -- Well, I had the feelings that seeing Walter Sisulu is asking me to convey these passengers that they must be part and parcel of their organisation.

Yes, and are you now saying that when you had that feeling you didn't also realise that the organisation was an illegal one? -- Well, I don't remember whether, when the Government made it illegal. I don't know the date.

Yes, but is your evidence that throughout the period when you were doing transportation until 1963 it never occurred to you that this might all be very illegal? -- Well, as far as I was concerned Walter Sisulu used to engage me and I was running strictly as far as I was concerned conveying the people for purposes of reward.

Yes, but that wasn't the question I put to you. Are you saying that all these months it never occurred to you that this Congress activity was illegal? -- Well, in a way at way. One can say that it was illegal and not illegal if we come to find out when the Government had banned the organisation.

During all these months did you or did you not consider that this activity was illegal? -- Well, it was illegal in leaving the country, and to become soldiers.

But you never considered - I never gave any particular thought to that.

Not, you didn't give any particular thought to the Congress aspect? - No.

That the Congress was a banned organisation? -- No.

Your answer is no. Are you sure of that answer? -- Yes. I had nothing to do whether they were banned or wasn't banned.

Yes. - I had only to do with Walter Sisulu engaging this and paying me the reward.

Well, did you think that there was any illegality in the work you were doing? I am not talking now about your road transportation business. That we're not interested in here. - You mean whether it was illegal if I had conveyed these people.

No, I am saying did you consider any aspect of this conveyance illegal? - No.

No. You thought you were -- I was running a pilot taxi.

Yes. In other words in all this activity on behalf of Walter Sisulu you, the only illegality as far as you were concerned was the pilot taxi business? -- As far as I was concerned if the police had to stop me I would tell the police Walter Sisulu engaged me for purpose of reward.

For purpose of reward. And as far as you were concerned that was the only illegality in the whole business? You never thought of any other illegality? - No.

Mr. Essop, the microphone can't pick up a nod. You must say yes or no or something else. -- I was only interested as far as I was concerned with the police that if they stop us I was conveying people for purposes of reward on instructions of Walter Sisulu.

Is that all you were going to tell the police? --



And I was quite willing to tell the police that Walter Sisulu told me that these people were supposed to go to Kenia and Tanganyika to become soldiers.

Why were you willing to tell the police that? --  
Because I must tell the facts. Because the passengers themselves knew that they were going to Kenia and Tanganyika.

Why were you willing to say it? -- Well, I'm telling the honest truth. Why should I hide something and then the police will say that I have knowledge that I am doing something illegal.

Didn't you consider that that was illegal? Taking people to Tanganyika. -- Well, at that time I was concerned that I am piloting and I was prepared to tell the police everything.

Did you or did you not consider that taking people to Tanganyika was illegal? -- At that time I didn't consider it.

You didn't, you did not. It amounts to this: You really had dozens of conversations, I suppose, during all these months with Walter Sisulu. -- Well, I had quite a few conversations.

Well, you had at least seven or eight trips, not so? So it is probably not wrong to say you had double the conversations with him. - I wouldn't say dozens, I would say about a dozen.

A dozen. Can you remember each conversations? Or can you just remember the general effects? -- Well, the general effect was just that in engaging the Combi and where the people were going to.

Engaging the Combi and where the people were going to. -- Going to.

And the time and place you were to pick them up. -  
And the time and place, and that they were going to Kenia and

Tanganyika to become soldiers.

Yes, now I understood from your previous evidence that on some occasions he told you that the purpose was for people to become soldiers, but not on other occasions? -- I wouldn't say some, maybe at least .. it could have slipped up, it could have been on one occasion, but it wouldn't, it was like agreed where the people were going.

Yes, well look on every occasion obviously you agreed where the people were going. - Yes.

(A) But in the dozen conversations that you had you, I understood in your previous evidence in the other case this morning, you said that on any of the particular occasions that you mentioned he might not have mentioned the purpose of training people as soldiers. Do you still agree with that evidence? -- Well, that could have happened, say on one occasion.

Yes. On any of the, on any particular of the one occasions when you had a discussion. - Yes, on one particular occasion.

Yes. But you don't know when that occasion was? It could have been any time? - Yes.

Yes. You see I want to come back to, if I understand you correctly - if I am wrong you must please correct me - if I understand you correctly you felt there was nothing to hide in what you were doing. - No, nothing to hide. If the police had stopped me we would tell them where we were going and what the purpose was. I wasn't leaving the country as far as I was concerned.

You had nothing to hide. You didn't keep your activity secret. -- Exactly.

If anybody asked you, not on the police, but some one else. They said: "Look, Mr. Essop, what are you carrying these people for?" You would have told them. Is that right?

-- Well, the only people that I suspect would ask me would be the police.

That's not my question. I am trying to get your state of mind. That's why I am asking you these questions.

-- Yes.

You would have considered the whole thing to be innocent, or fairly innocent, not so? - Yes.

It was part of your ordinary taxi business. - It was part of my ordinary taxi business.

Your ordinary pilot taxi business. - Yes.

Now, what I am saying is in your own mind you weren't hiding the fact that you were taking people out of the country. -- No, if the police had asked me I would tell them.

If anybody asked you you would have told them, not so? Well, I don't know. If anybody would have asked me I would have told them that we do convey people up to Lobatsi, Bechuanaland.

You are sure of that reply? - Yes.

You are sure of that. You didn't keep your activity, in other words, you made no attempt to keep your activity a secret. - No.

Your answer was no? - No.

Now, you had a number of drivers, didn't you? -- Yes.

And did you tell the drivers what it was all about? -- Well, I normally don't tell the drivers anything. I just tell them to take these people up to the border.

That's not my question. Did you tell the drivers at any stage why they, -- No.

What it was all about? - No.

Didn't they ever ask you? - No.

These are people who have been working for you for months, for years. Do you mean to say in all this time

you didn't tell them the purpose of the trips? -- No. I never told them. If he could have gathered something out of the . I never told them. Normally we just tell the driver to convey the people to the border.

In June for example, 1962, did Coetzee take people? -- Yes.

Did you tell him where to? -- Yes, I told him he is to take these people to the meeting; wait for the meeting to be finished and then bring them back.

So you told him then that the purpose of the trip was a meeting? -- Yes.

Now, in August for example, did you tell him what the purpose was? - No. I just told him to drop the people at the border.

Did he say to you: "Well, what is it all about?" -- No.

He didn't ask you? -- No.

Not one single question? - I don't remember.

Normally I give them instructions.

Well, then let me put this question to you. If he asked you would you have told him the truth? -- ...

I beg your pardon? -- I suppose so.

And if he asked you many times you would certainly have told him, not so? -- Yes.

You see, Coetzee has told his worship a different story. Coetzee says that he did ask, and he says that you indicated to him that you didn't know what the trips were for. What do you say to that? -- Well, I don't remember anything. My instructions to the driver normally were to take the people to Lobatsi and he was to convey them and come back.

Can you suggest any reason -- He may have asked me and I may have acknowledged.

But that is not in evidence. His evidence is that you

N.B. ...

repeatedly told him

THE COURT: He says he may have asked him and he may have ..  
-- The evidence is to the contrary, sir, and I am putting  
it to him.

I beg your pardon? The evidence is to the  
contrary. It wasn't ignored.

THE DEFENCE: You see Coetzee's evidence was this morning  
that you specifically told him on a number of occasions  
that you didn't know what the purpose of these trips was for.  
Now, do you deny that or do you admit it? -- Well, if he could  
have asked me, he could have asked me and I could have told  
him to do what he was supposed to do, and to convey the people  
to the border.

You wouldn't have lied to him, not so? -- Well, I  
don't think I would have lied to him.

Well, can you suggest any reason to his worship why  
he comes with that version this morning? That you told him  
you didn't know. -- Well, I have no idea, but I just told Piet  
to convey these people. He could have asked me and I could  
have just told him to do what he is supposed to do.

You can't take it further than that? -- I couldn't  
take it at all.

I think you have indicated to his worship that you  
don't remember specific conversations, exact conversations  
but you remember sort of a general idea of what was agreed upon,  
not so? -- Yes, general ideas between Sisulu.

Yes. -- Yes, the general idea about how many Combis  
he required.

Yes. -- How many people were to be conveyed and the  
purpose of conveying.

Now, if one takes for example the August 1962 discussion.  
I take it you can't remember whether the, he first told you  
how many Combis he wanted, or whether he first told you

where he wanted to go. -- Well, I can't say which instance he placed first.

Well, that's the point. -- I mean the general point is how many Combis, how many passengers, and where they are going and the purpose.

That's right. Now, that's the point, and that is that today you can't possibly tell his worship which part of the conversation you had first. Is that so? -- Naturally not. He could have told me that: I want two Combis. Or he could have told me I have got 20 passengers to convey, and that I need two Combis. I don't know which sentence he must have

Yes, in other words, your conversation might have started off with him saying, let us say: Soldiers are going to be trained. Or it might have ended off with soldiers are going to be trained. Either one of the two. -- Or he could have started off, or he could have ended off with the soldiers.

Yes. And that's of course applied to any of the conversations which you had. To all of the conversations which you had, not so? -- Correct.

I beg your pardon? -- Yes.

Now listen. You, I think have made it very clear before the court that your motive was money, not so? -- Yes.

You wanted to make profit. So, and you also I think made it clear this morning, I don't think we have to go over the whole thing again, that it really didn't matter what they wanted the transport for. -- Yes.

Whether they wanted a meeting or whether they wanted to go overseas or whether they wanted to go and swim. It didn't matter to you, as long as they paid you, not so? -- Well, it would matter. how many Combis they wanted, how many passengers to be conveyed, and where they are going.

No -- Of course it wouldn't matter whether they

want to go to Durban for a swim, it wouldn't matter, but it has been told to me that they want to go for this.

The point is you didn't care what they wanted to do in the place they were going to, that wasn't your business. -- It wasn't my business, if they were going to Kenia and Tanganyika and to become soldiers.

Nor was it your business why they were going to Durban? -- Correct.

Or why they were going to Swaziland. --

As far as you are concerned they only thing which was necessary was an agreement on the Combis, the time and the money, not so? -- The Combi the time and the money and the purpose, because if it is a meeting then I must make a return trip with the passengers.

Well, you would ask him, you would ask him whether he wanted a return trip. -- He told me he was conveyeing passengers and we must only drop them at Lobatsi and they are going train as soldiers; there is no return come back.

Yes, but it amounts to this, the other thing you wanted to know is whether you would have to wait or not? -- Naturally. If he tells me he wants us to drop the people at the border and they are going to Kenia and Tanganyika to become soldiers, there was noquestion of waiting for them. Then they are going to finish training as soldiers and they must bring them.

The point is, when you made your contract with him you were interested in the money, the time, the place, the number of Combis, and whether you would have to wait, not so? -- And that they have got a meeting or they are going one-way traffic to become soldiers.

That was only because you wanted to know whether you must wait. -- That is what he told me.

Yes; but I'm talking about what interested you.

-- Naturally I had to ask if they had a meeting. If it is not a meeting, but he used to tell me drop them as far as the border, then he tells me that we must drop them as far as the border. That means they are going, that there is no meeting there, they are going through the veld, and that they are going to Kenia and Tanganyika to become soldiers. I'm not supposed to come back and pick them up.

Yes, the only thing is this: You would have done the job even if he hadn't told you why they were going across the border. If he said to you: "Look, I want three Combis to take men to the border, and you don't have to wait there." That was enough for you. -- Well, he would tell me what the purpose was.

I know he would tell you. That you have told his worship dozens of times. I'm saying it didn't really matter whether he told you the purpose or not, provided he told you whether to wait or not, not so? -- The fact remains here Walter used to make it quite clear we want so many Combis, so many people are to be taken, they are going to Kenia and Tanganyika to become soldiers.

Yes. You see, I just want to put it to you this morning, I put it to you in very clear terms, that you weren't interested in the purpose of their journey, and you admitted that. -- Well, I am not interested whether they reached Kenia and Tanganyika to be trained as soldiers or not, or whether they retire in Kenia. That wasn't my troubles at all, but that was made known to me by Sisulu.

RE-EXAMINATION BY THE PROSECUTOR

Through your association with Sisulu and other representatives of the A.N.C. were you given to understand who actually wanted the transport? -- Yes, Walter Sisulu required the transport.



For himself personally? -- Well, he wanted the transport to convey the passengers.

Whose passengers? -- The people that were supposed to travel in the Combis.

But were you given to understand that Walter Sisulu wanted these things for himself alone or for some other purpose? -- No, he wanted to book the Combi for conveying these people on behalf of the organisation.

THE COURT: And when he hired you in February did he state the purpose? - Yes.

Namely? -- Namely that he had 37 people to convey to on the border of Lobatsi, and they will travel to Kenia and Tanganyika to become soldiers.

HARRY VUYISILE BAMBANE, 'v.o.e.

Is jy in Aprilmaand 1963 daarvan skuldig bevind dat jy die Republiek verlaat het sonder 'n paspoort? -- Ja.

Is jy ook toe gestraf? -- Ja.

Op watter manier het jy die Republiek verlaat? -- Ons was op pad na Tanganyika toe om opgelei te word.

Wie was almal saam met jou gewees? -- Ons was almal 37 gewees.

Was die beskuldigde -- Die beskuldigde ingesluit.

En hoe het julle gereis vanaf die Republiek? -- Ons het 'n lorrie gekry na Zambesi toe.

Het jy tot op Johannesburg gekom? -- Ek het van Capewood af gekom na Port Elizabeth.

En daarvan af na Johanneburg? -- Ja.

DEFENCE: I must ask my learned friend not to lead please.

AANKLAER: Op Johannesburg aangekom wat het jy gedoen? --

A | Ek is na 'n sekere huis geneem, wat aan my onbekend is.

En hoe is jy daar van daan weg? -- Ons is met Combis

van daardie huis weg.

· Hoeveel Combis was daar? -- Drie Combis.

· Was daar enige ander voertuig? -- Een motorkar.

· Waar het jy die beskuldigde vir die eerste keer gesien?

A

-- By Lobatsi.

· Wat was die doel waarom die groep die land verlaat het?

B

-- Ek is alleen van my plek af weg. Ek weet nie van die ander mense nie.

· Vir watter doel het jy gegaan? -- Ek het die plek verlaat om opgelei te word.

· Opgelei waarvoor? -- As 'n sblदात.

· Het jy met die ander persone in die groep gepraat? --

C  
NPS

· Ja.

· Het jy met die beskuldigde gepraat? -- Nee, ek het nie met beskuldigde gepraat nie.

· Vir watter rede het die ander persone saam gegaan?

DEFENCE OBJECTS.

AANKLAER SPREEK DIE HOF TOE.

DEFENCE ADDRESSES THE COURT.

THE COURT: The witness was one of the group who was traveling to Lobatsi and from there to Kenia and Tanganyika.

Evidence has been produced as to the purpose for which they had gone there, namely that Sisulu had hired these people, Sisulu had hired one Essop to convey them for purpose of being trained as soldiers. The witness before court says that he went there for that purpose. From the evidence already given the inference may be formed that they went there for a common purpose. The question is therefore admissable.

DIE AANKLAER: Wat het hulle vir jou gesê omtrent die doel van hulle vertrek uit die Republiek? -- Hulle het ook vir dieselfde doel gegaan as ek.

· Tot 'hoe ver' het die Combis julle vervoer? --

Tot op die grens.

· Het die groep daarna bymekaar gebly of uiteen gegaan?

-- Die groep het bymekaar gebly.

· Was daar 'n leier of 'n spreker onder die groep gewees?

-- Ja, die een wat ek gesien het is die persoon wat verlede week hier veroordeel is.

· Is dit Joe Gabe? -- Ja.

· Hoe het julle toe verder gereis vanaf die grens? --

Van Lobatsi af het ons te voet geloop.

· Tot waar? -- In Lobatsi lokasie het ons 'n lorrie gekry.

· Wie het die lorrie in die hande gekry? -- Ek weet nie.

A Die lorrie het in die nag daar gekom.

· Wie het julle van die lorrie vertel? -- Ek het niemand gehoor vir ons van die lorrie vertel nie.

· By watter plek was julle toe gewees? -- Ek ken nie Lobatsi goed nie. Ek weet nie wat die naam van daardie plek is nie.

· Is julle almal saam hierso? -- Ja, ons was nog almal saam.

· Is julle saam toe ook vertrek met die vragmotor? -- Ja.

· Tot waar het julle gery met die vragmotor? --

Tot by Zambesirivier.

· Wat het daar gebeur? -- Daar het ons 'n boot gekry, en ons is deur die rivier.

· Ja, daar van af? -- Joe Gabe en die beskuldigde het toe vir ons 'n Landrover gekry toe ons oorkant die Zambesirivier was.

· DIE HOF: Joe Gabe en die beskuldigde? -- Die beskuldigde.

· DIE AANKLAER: Hoe het hulle die Landrover gekry? -- Hulle het die Landrover by Livingstone gaan kry.

· En is julle toe verder met die Landrover? -- Ja.

Tot waar toe? -- Tot by die stasie te Livingstone.  
Wat het daar gebeur? -- Toe ons daar aankom het die polisie vir ons gearresteer.

Daarna is julle terug gestuur? -- Ja.

KRUISONDERVRAGING DEUR DIE VERDEDIGING

You say that the purpose of your leaving the country was to seek training as a soldier? -- Yes.

Was that always your purpose or did you have a different purpose when you set out from home? -- It is what has been told to me.

But did you always intend to get training as a soldier or did you want to go overseas or out of the country for some other motive? -- They said that I should not ask anything.

Yes, but I'm talking about you. -- The person at my place told me what to do, and said that I should not ask anything.

I see, now but what did you consider you were going out of the country for? Did you think you were going to be just a soldier or did you consider that you were going out for studying? -- I do not know. I was told that I would see what would happen in Tanganyika.

In other words you had no idea what the purpose, what would happen to you until you got to Tanganyika? -- Yes.

A But when you set out from home did you think you were going to be trained as a soldier or did you think that you might be sent to a school or university? -- When I left home I was told that I was going on a scholarship, and when I met Joe Gabe he told me that we were going to be, we are going to receive military training.

When was it when he told you that? -- It was when we were at Lobatsi.

A I see. In other words you were really misled into going out of the country? -- Yes.

1 Had you known in the beginning that this was for  
 2 military training you obviously wouldn't have gone. -- No.  
 3 I would not have left the Republic.  
 4 And as far as you know the other, some other members  
 5 of the group were similarly misled? -- It is possible,  
 6 but I do not know.

NB

7 Yes. As far as the accused is concerned you only  
 8 met him in Bechuanaland. -- Yes.

9 Just one other question. Can Coetzee be brought into  
 10 court please sir? This gentleman here, Coetzee, do you know  
 11 him? -- Yes.

NB

12 He was the driver of one of the Combis, not so? --  
 13 Yes.

14 Were you in his Combi? -- No.

15 No further questions.

CONCLUDES EVIDENCE FOR STATE.

DISCUSSION.

HENRY MOIGOTHI, unsworn

You are the accused in this matter? - I am.  
 How old are you? -- I am 54 years of age.  
 54 years of age. Are you married? -- I am a married  
 man.

Have you got children? -- I have got two children.

Where are they staying? -- They stay in Fuller  
 village at present with my wife. .. house.

What are your academic qualifications? -- I obtained  
 the Bachelor of Arts degree from the University of South  
 Africa.

You obtained what? -- The Bachelor of Arts degree.

Can you speak up please. -- The Degree of Bachelor  
 of Arts was awarded to me by the University of South Africa.

And have you got any other degrees than that? --

I was also awarded the University Education Diploma by the University Rhodes.

What kind of Diploma? -- University Education Diploma.

By the University of Rhodes? -- Yes.

Have you got any other qualifications? -- I do not have other academic qualifications.

I understand you have got no previous convictions apart from a technical offence for a location permit. Is that correct? -- I was convicted

PROSECUTOR OBJECTS TO LEADING QUESTIONS.

To get the facts, you have in the past been convicted once. Is that correct? -- That is so.

For what offence? -- I entered Germiston location without a permit.

What fine did you get? -- I was fined £2.

You were eventually arrested, not so, together with other people by the police and brought back to South Africa. Is that correct? -- That is so.

Now, would you please briefly tell his worship how you came to be with those people, and what your purpose was in leaving the Republic. -- Towards the end of June this year I

Which year? -- This year, 1963.

Yes? -- Towards the end of February. I'm sorry, I might have said June. Towards the end of February I left the Republic with a friend of mine who is a teacher also in Bechuanaland. The purpose for which I left the Republic was to go and take up a teaching position which I had been offered in Tanganyika in Dares-Sallaam.

Dares-Sallaam? -- Dares-Sallaam.

Who made this offer to you? -- Dr. Arndt, a Norwegian scholar.

Dr. Ann? -- Dr. Arndt.

How do you spell that? -- Arndt.

Where was this offer made to you? -- During the course of the conversation I had with Dr. Arndt in Johannesburg.

When was that? -- It was in the middle, after the middle of 1961.

Yes? Yes, during that conversation? What happened? -- During the conversation Dr. Arndt, who had in fact been speaking to the Institute of Race Relations on this matter.

Had he given a speech or was it just a conversation? -- It was after he had spoken about this project which he was personally in charge of, the project of building this school in Tanganyika.

At what place in Tanganyika? -- In Dares-Salaam.

In Dares-Salaam. Go on. -- Dr. Arndt explained the project to me, and it seemed the Norwegian people were prepared to build a school in Tanganyika to assist in the general cultural development ..... in the cause of education in Tanganyika.

Did he indicate, I'm sorry have I interrupted you? Did he indicate when the project would be finished? -- He indicated to me that the project would probably be finished by the middle of 1963.

At the stage when you left, let me go a little further back. You say you were originally a teacher, not so? Is that how you make a living? -- That is how I originally made my living.

Did you keep your job? As a teacher. -- I did not keep my job as a teacher.

What happened? -- I was dismissed from my position.

And what job, at the stage when you left the Republic did you have? -- *At the stage when I left the Republic*

the job I had was one of an office boy.

How much money did you get for that? -- I was receiving £7 a week.

£7 a week. What did you expect you would get from your job in Tanganyika? -- I did discuss this aspect with Dr. Arndt and he said that they were prepared to offer initially between forty and fifty pounds.

For teachers? -- For teachers.

Yes, go on. Anything else? -- Then I asked Dr. Arndt whether I would be considered favourably for the position of the school when it was completed, and he answered me in the affirmative.

So what was your purpose when you left in February 1963? -- My purpose when I left in 1963 was to take up this position.

Dis you have a passport? -- I did not have a passport.

Why did you not make an application for one? -- The impression has been created that the Afritans are not allowed to have passports, and I considered that I did not have any chance of obtaining one in the circumstances.

So when you left the Republic where did you make your way to? As the first stopping point outside the Republic. -- The first stopping point was at Lobatsi.

How many people accompanied you to Lobatsi? -- I travelled in a car with my friend Mr. Fona Mbena, Peter Fona Mbena,

Yes. -- who .. teaching.

Anyone else? -- There was also a lady, but the lady did not travel as far as Bechuanaland.

I see. -- I think we dropped the lady, I think it must have been about Krugersdorp or so.

Did any of these other people have anything to do with the, with training or training for soldiers as referred here?



In Tanganyika or anywhere else. -- You mean the lady?

Any of the other people in the car? -- There were only the three of us. No they did not have anything to do with that.

Did you at any stage leave the Republic in a conveyance consisting of Mr. Essop's three Combis? -- I have never been with Mr. Essop nor the gentlemen who left in Combis.

What happened in Bechuanaland? Where did you eventually meet this party with whom you were eventually caught? -- I met them in Bechuanaland. I met them, I remember seeing, I think a few of them when I was in the office of the British Immigration Authority at the time I was discussing my stay in Bechuanaland as I hoped to stay for some time.

Yes, and then? You met these people, then? -- And I met these people there. After that I learnt that these people were proceeding in the same direction as I was proceeding, and a lift was subsequently arranged for me to travel on the same lorry.

For how long were you with these people before you were caught? -- We travelled a whole day with these people.

They were your own countrymen, is that right? -- Yes, they were my own countrymen.

Did you talk to them? -- Yes, I did talk to them though I would not be able to say which one of them I did speak to.

Yes. -- But I do consider that I did talk to them.

You eventually were caught by the police? And returned to South Africa. -- That is so, sir.

Is there anything else you wish to say? Is that all? -- I consider, sir that what I would like to place before the court in mitigation has already been ..

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