

HARIM PITMAN

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

CASE NO.: 18/75/254.

19th AUGUST. 1976.

In the matter between:

THE STATE

versus

S. COOPER AND EIGHT OTHERS.

VOLUME 141

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LUBBE OPNAMES (PRETORIA)

THE COURT RESUMES ON THE 19th AUGUST, 1976.

NKWENKWE VINCENT NKOMO: still under oath:

FURTHER EXAMINATION BY MR PITMAN: Yesterday you got to the stage, chronologically speaking, where you had said that Harry Singh gave you a list of the names of Mr Mothuping, Mr Ben Louw and asked you to contact them and request them to be speakers at the symposium. -- That is correct.

Now would you go on from there? -- I got in touch with Mr Mothuping and Ben Louw and they were both willing to go down to Durban to address the symposium. (10)

Did you make any arrangements with Harry Singh about contacting Mr Harry Singh again? -- Yes, at the SEMICON he told me that on Wednesdays between 1 and 2 in the afternoon he was in a position of making phone calls and I think he said he could make the calls free at his place of employment. So we made the arrangement that every Wednesday between 1 and 2 I must be at the Black Community Program office in Braamfontein to receive his call, because that is where we normally phoned when we had long distance calls.

Did he in fact ever phone in pursuance of that (20) arrangement? -- He did phone in pursuance of that arrangement and I notified him that Ben Louw was not in a position of coming down to Durban, but I would be coming along with Mr Mothuping. Incidentally he also asked me to be a speaker at the symposium and he told me that I would speak on the Black People's Convention as an overt people's movement. Then on the Friday, that should have been the 13th, we drove down to Durban. That was myself, Mr Mothuping, Mchlomola Skhosana.

Will you write these or spell these?

BY THE COURT: I think he has already spelt them. -- (30)
Gerald Phokojo, the regional secretary of SASO and the
president/...

president of SASO, Phandelani Nefolovhodwe, accused No. 6. On Sunday the symposium was held at Kajee Hall. The speakers there were Norman Dubasana who was then publications director of SASO, Phandelani Nefolovhodwe who was then national president of SASO, Dr Chapman Balweni who is a member of BPC and was practising at Edendale Hospital in Pietermaritzburg, Dr Manas Buthelezi, Mr Zeph Mothoping, Harry Singh and myself. The Rev. M. Mayathula was the master of ceremonies. Norman Dubasana - or incidentally let me explain how accused No. 6 came to be a speaker, because he was not in the program. (10) Now, when we started the symposium, we were not certain whether Dr Manas Buthelezi would come. So as I knew that the SASO group who were holding their meeting in Durban were around, I approached the president and asked him to come and speak and he agreed to speak.

BY THE COURT: Is that No. 6? -- No. 6. Norman Dubasana spoke on the role of the students in the society.

MR FITMAN: Who was that? -- Norman Dubasana. And accused No. 6 spoke on why we go it alone. Dr Chapman Balweni spoke on the role of professional people in the struggle. Dr Manas (20) Buthelezi spoke on Black theology. Harry Singh spoke on I think historical background to the struggle. I am not very certain of the title, but he had something to do with the history.

What did Mr Mothoping speak about? -- Mr Mothoping spoke generally on organising the people. He did not have a particular theme. And then I spoke, as I indicated, on the Black People's Convention as an overt people's movement. In the speeches there there was no speech that I can call or term as anti-White. (30)

Were there any visitors there? -- Yes, just before we adjourned/...

adjourned for lunch, two people came who had been attending the mythological seminary at Mapumulo.

Mythological? -- Mythological at Mapumulo. That was Mr Daniel Tjongarero - T-j-o-n-g-a-r-e-r-o - and the Rev. Kameeta K-a-t-e-e-t-a. They were both from South West Africa. And Mr Tjongarero, well, he just greeted us, he did not really deliver a speech and the Rev. Kameeta spoke briefly on Black theology. At the same time Mrs Fatimah Mear was asked by the master of ceremonies to come to the floor and she also delivered a short speech. At the end of the symposium (10) there were questions that were asked. The Rev. Dr Manas Buthelezi wanted to know what our attitude was to Whites who were sympathetic to our cause and wanted to be helpful. The first answer I gave to that question was that it was impossible for us at that stage to sit around and plan with the Whites our strategy to liberation because we had to close our ranks. When we close our ranks we will be in a position of speaking to the Whites, but as it was Whites were creating dissension among us so we had to come together first and I think I used the imagery of a boxer. I said something like how can (20) you speak to a man who is boxing you at the same time. We must first find means and ways of countering his blows and then you would be in a position of speaking to him when he realises that he cannot box you at random. But the Reverend sort of pursued the question and a lady from the floor stood up and said that if one was given lots of meat - I am not purporting to quote her exactly - and one was asked to choose the non-poisonous one from those, one would die in the process, but she could not say and complete it, so I reiterated what she had said. (30)

You mean she got confused? -- She got confused, she could not/...

not bring it out correctly, so I reiterated what she had said and there was general laughter in the hall. Then there was a man who wanted to know how BPC planned to achieve liberation. I was the first to give an answer to that question and in my answer I said that BPC wanted to unite the Black people as I had explained earlier on in my speech about the Black People's Convention and what it stood for and when the people were united, then BPC believed that they will be in a position of effecting the change. And he carried on and said that we had been talking and talking, but what are we going to do (10) about the change? Then Mr Zeph Mthoping stood up and said that no Black man could ever ask such a question because every Black man knew that liberation would come by positive action. Harry Singh in evidence said that I gave that answer, in fact he said something to the effect that I scolded the man who put that question and said he should not ask that kind of a question in a public meeting. I never gave that answer and Mr Mthoping did not scold that man per se, he only said that no Black man can ever ask such a question, because all Black men were aware that liberation would come through (20) positive action. After the symposium a number of people came forward who wanted to join BPC as such and I referred them to the vice-president, Colin Jeffries, who was present, Benson(?) Mbeo and other people who belonged to the Durban branches who were there. At the symposium pamphlets were distributed 'Towards Freedom Now', an exhibit before this Court, I have just forgotten the exhibit number. If I may just further develop the point of the man that was chucked out of the hall.

Yes. -- Now, we, that is the Black People's Convention, are not against any Black person, but we are against (30) people who want to use or who we think want to use us to their own/...

own ends and I think this is what the Rev. Mayathula had discovered when he questioned that man.

A short while later did you eventually receive a telephone call from somebody? -- I went back to Johannesburg and I think on the Wednesday, that would have been the 18th September, 1974, I received a telephone call from Harry Singh. He asked me to come down to Durban immediately. He was in fact insisting that I should entrain on the very same evening, but I explained to him that I was not in a position of doing so because I was not prepared and I promised to entrain the following day. And (10) on Thursday I went down to Durban. I arrived in Durban on Friday, the 20th and I went to the BAWU office and at the BAWU office I met accused No. 1, accused No. 2, accused No. 3, Lindewe Mabandla, Benson Mbeo and Colin Jeffries who was then the president of BIC in the absence of Farisani.

Farisani was in Israel? -- Farisani was in Israel. And I was appraised of the intention to hold the rally. Incidentally when Harry Singh phoned me, he did not indicate to me why he wanted me down in Durban, but because we had spoken about the newsletter I took it for granted that I was going down (20) to Durban in connection with the issue of the newsletter. At that time Harry Singh was not in that meeting and I was told that there was an intention to hold a Viva Frelimo rally to celebrate with the people of Mozambique on their achievement of independence.

And they told you when it was to be held? -- And they told me that they thought the 25th September would be an ideal date as on that day I think power would be handed to the interim government of Frelimo. I said it was a good idea and I agreed on this and Harry - or rather Colin Jeffries went to (30) book the stadium.

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As the acting president? -- As -- well, anyone could have done the job really, but it fell onto his shoulders and Muntu Myeza, that is accused No. 2 and myself were given the responsibility of publicity. Then Harry Singh came during his lunch-time and we had a chat over the whole idea and he appeared to have been appraised of the situation before and he agreed to come and pick me up later when he left work. Then I went to the newspapers with accused No. 2.

Which newspapers? -- Ilangalase Natali, Sunday Times and the Sunday Tribune. Those were the papers we touched on (10) that Friday. We came back, then I left with Harry Singh to put up at his place overnight. We proceeded the discussion on the holding of the Viva Frelimo rally.

Who did? -- Harry Singh and myself, that is at his place. And we felt that it would be good to get speakers from Mozambique because if I may point this out, on Friday we had expressed a desire to have the speakers and I think accused No. 2 had promised to try and phone Mozambique, but we felt that .. (intervenes)

Had it already been publisised or not, that there (20) were going to be speakers from Frelimo? -- No, no, no, it had not been. Only the intention of holding the rally at that time, because Ilangalase Natali would have an edition in the following week and these two other newspapers were Sunday newspapers which would only come out on Sunday. So Harry Singh and I agreed that in fact an effort should be made to get the Frelimo speakers and he said that he had a passport and he was willing to go to Mozambique and we finally ended up on the agreement that the next morning we would tell the other people that we feel that Harry Singh must go to Mozambique. The following (30) morning we went to the SASO office, I think we started at the

BAWU/...

BAWU office where we were joined by accused No. 4, that is Dr Aubrey Mokoape, who had just been in town and complaint was that he had just seen pamphlets or I do not remember what, but he had heard that we were going to hold a rally on the 25th and he thought the time was too short and publicity was not sufficient. So he urged us to speed up publicity. Then we proceeded to the SASO office where we met accused No. 2. Now, incidentally accused No. 3 was not present now on Saturday.

Yes. -- We met accused No. 2, that was accused No. 1, accused No. 4, myself, Benson Ilbeo, I do not recall who (10) else was there, but those are the people that I can recall. Harry Singh and I put forward our proposition and the people agreed and they felt that it was desirable since it was somebody who could do the job and we agreed that we should try and get a car, that is to enable him to travel to Mozambique because his vehicle would not be able to make the trip and also it was during the time .. (intervenes)

What .. (both speaking simultaneously) -- Volkswagen Beetle.

Yes. -- Now, after the meeting I gave Ahmed Bawa (20) about R30 or somewhere in that region to buy calico material for banners and paint and I also asked him to go to the South African Soccer Federation to ask for the guillotine and I went into town. At about half past twelve - incidentally, I did not go back with him to the SASO office as he said in his evidence-in-chief. At about half past twelve I took Harry Singh's car and picked accused No. 4, Dr Mokoape, opposite the O.K. Bazaars with groceries, then we went to pick his wife and we drove to Umlazi. I came back at about 3 or thereabouts and I found Harry Singh at Beatrice Street. (30)

You left Mokoape and his wife? -- I left Mokoape and his wife/...

wife at home. I found Harry Singh in Beatrice Street. I think he had pamphlets, but there were other people with him who were distributing pamphlets. Then we drove to Harry Singh's place. I did not go back to the SASO altogether. We drove to Harry Singh's place and accused No. 1 and his wife joined us at Harry Singh's place. We had lunch and accused No. 1 brought our attention, the pamphlet, RALLY A.4, that was distributed. What I noticed in the pamphlet was that it did not reflect the time, that is what I noticed in the pamphlet, but I think accused No. 1 indicated that it was sort of too academic. (10) Well, I agreed with his assessment because it was sort of long and I believe that most people do not have time to read such long pamphlets really, but if it is just short and precise just giving a message there. Then I do not remember whether he drafted the English version of RALLY A.5 and then I translated it into Zulu. Then we went and we left to go and hire a car for Harry Singh's trip. We touched quite a number of hiring garages and during that period .. (intervenes)

Just before you go on, did anything - what did you do with the rally exhibits or don't you know? That is the (20) pamphlets. -- Oh, I am coming to that now.

Oh. -- On our way, when we were looking for cars, for a car, we got to some guy, I do not remember the name of that hiring company and there was a breakdown of communication between Harry Singh and the people that were in charge there. So I was a bit disturbed myself and in retrospect I thought that if Harry Singh could be so excitable here when he definitely needed a car, because it was about 4 or 5 in the evening and we did not stand a chance of getting a car anywhere else. Now, it sort of came to me that in fact (30) he might mess up the job in L.H. and I think also what influenced/...

influenced me on that score, was that I remembered that when he had gone on his fund raising trip, he was not very successful. So I thought that he was not in a position of handling this. So I spoke to him that well, I will accompany him and he agreed.

Accompany him to Mozambique? -- To Mozambique and he agreed, but I indicated that I did not have the necessary documents and then he said we will cross that bridge when we come to it. That is at that time no one knew about my going with Harry Singh. Then we eventually got a car from Grosvenor Motors at the Langham Hotel. Then we went back to the SASO office (10) and drafted a letter of introduction something to the effect that these were messengers that were sent by BPC and SASO and they should be accorded whatever they desired, something to that effect, I do not remember the exact wording. It was signed by accused No. 2 and I also counter-signed. Then I indicated now to accused No. 2 that I would be leaving with Harry Singh and in my absence he would take over the responsibility of publicity because he and I were responsible for that. He did not ask me whether I had documents or anything like that and I did not say anything to him either. (20)

MR REES: Excuse me, who was this who was going to take over the publicity?

MR PITMAN: No. 2. -- Accused No. 2. Then we proceeded to - or incidentally, during that time then we handed the draft pamphlets to accused No. 2. I tried to cut a stencil but I spoiled it so I left the job to him. Then we proceeded to Harry Singh's place and then from there to accused No. 1's place where we found him painting banners, that is the rally banners that have been exhibited in this court. And there was also Harran Aziz, I do not know at what stage he joined us (30) but I remember specifically that part where he indicated that he wanted/...

wanted to accompany us to Mozambique and there was no objection.

Harran Aziz? -- Harran Aziz. Well, I was meeting him for the first time.

BY THE COURT: What was his position? -- He was - I do not know that is in the Durban branches, but I took him as a supporter or ordinary member. I did not really enquire into his exact position. Then we left for Mozambique. That could have been ten or half past ten because I remember we managed to get a copy of the first edition of the Sunday papers, both the Sunday Tribune and I do not remember whether the (10) Sunday Times but we had about two copies there. Then we proceeded to L.M. via Stanger where Harran Aziz collected some of his property. We went .. (intervenues)

MR PITMAN: Just before you go on, this Harran Aziz was he detained by the Security Branch after this? -- Yes, he was detained before me by the Security Branch and he was released in 1975.

I see. You picked up some of Mr Aziz's goods? -- And we proceeded to L.M. When we reached Golela, that is at the border at Golela, we drove into a side street there and (20) .. (intervenues)

That is the border with Swaziland? -- Swaziland and South Africa.

Yes. -- Then I crossed over the fence into Swaziland, not at the Customs. Harry Singh and Harran Aziz passed through the Customs officials and we met in Swaziland after about 6 or 7 hours.

Do you mean from the time you left them to the time you rejoined them was 6 or 7 hours? -- It was 6 - I walked a lot, I walked a lot and I was chased by cows and snakes. (30)

BY THE COURT: Chased by what? -- I was chased by cows and snakes/...

snakes in the bush.

By cows? And what about Harran Aziz? -- He had documents. Well, I finally met them in Swaziland and we proceeded to Manzini where we had to wait for petrol at about 2 or something like that. In the process we entertained ourselves and we proceeded to Mbabane, the Holiday Inn at Mbabane where Harry Singh put a call through to Bokwe Mafuna.

MR PITMAN: Where was Bokwe? -- Bokwe Mafuna was in Botswana. Contact had been made with Bokwe Mafuna just before we left for L.M. for him to see whether he could not be of (10) assistance and we promised to phone back and find out whether he could be - he succeeded. Bokwe was a journalist when he was still in this country and we thought he had connections, I mean as most journalists he seemed to have connections here and there. I do not remember whether the call was successful but we had to wait for quite some time also and well, we also took advantage of the situation and we proceeded to L.M. When we reached the Namaacha border, we met a man there, I remember his name was Eddy and we spoke to him and in fact he was willing to take me across the border. Harry Singh and Harran (20) Aziz proceeded through the Custom officials and I again crossed over the fence into Mozambique. We met in Mozambique and we drove to Lourenco Marques. We met the first road block manned by both Black and White soldiers and they searched the car and I approached the one I thought was in charge and produced my BPC membership card and explained that we are on a mission to try and get speakers. He then gave us an escort, White soldiers to escort us, that is through the other road blocks we were not searched, we only stopped and then the men we had would go and tell them and then we will proceed until we (30) reached L.M. When we reached L.M. we proceeded to Cardoso Hotel/...

Hotel where the provisional government was staying at that time. We handed in, that is Harry Singh and myself, our membership cards and the letter of introduction to the Security Police, who were incidentally White and asked for an interview with the members of the government. Then we were told to come back later and in the meantime we went into the town itself. Then we looked - or rather before we went to Cardoso Hotel, we went to the offices of Noticia, a newspaper there, because we were looking for direction at that time. That is where we found out that the cabinet was at Cardoso Hotel and one reporter, (10) Fernando Magalio, if I remember him correctly, was willing to put us through and he gave us 100 escudos just to be able to have money to throw around there. And that day we could not meet any member of the Prelimo because when we came back later, we were told that they had a meeting and we waited until about 11 and we were eventually told that they would not come back to Cardoso Hotel as they moved to Government Palace where they would be staying. So an appointment had to be made the following day. The following day we went back to Cardoso Hotel to find the membership cards and the letter of introduction (20) and we were informed that they had been handed over to the Minister of Information, Mr O. Montero and we were given his telephone number. We telephoned him and he asked us to come to the Government Palace. We went to the Government Palace and we succeeded in seeing him. We told him that we had come there that is to get speakers for a rally we are holding in celebration with them for their achieving of independence. Well, he listened to our story, but he said the government was still new and they were trying to put things in order, he did not think they were in a position of sending anyone, but he (30) suggested that we should get the members of the militancy.

BY/...

BY THE COURT: Of the? -- Militancy, that is the word he used. But we could not get anyone of the militancy and also we were hard pressed on time because that was Tuesday and the rally was scheduled for Wednesday evening so we came back to South Africa.

MR PITMAN: Just before you leave Mozambique, had you been to Lourenco Marques before? -- I have been to Lourenco Marques in 1961 with a school youth club.

Did you notice any differences, any marked differences? -- Well, at that time I was young and I was just impressed (10) by the way we rode, you know, buses together with white people and so on and when I went back in 1974, I did not see anything -- I just saw the ..(inaudible) of people to be the same.

Any fighting there? -- No, there was no fighting at that time.

Soldiers? You said you saw Black and White soldiers. -- Both Black and White manning road patrols.

So you left Lourenco Marques. -- Then we came back into South Africa and again at Namaacha eventually we had made an arrangement with Eddy to meet me and take me across and (20) we met him, went into Swaziland, but because we were rushing time, we could not go back to Golela because by the time we arrived there the border gates would have been closed, so we went through border post that is into the Transvaal. Then Harry Singh was driving and when I woke up he told me that the rally had been banned. The car we were travelling in, had a radio in it and he told me that he had heard over the news broadcast that the rally had been banned and we exchanged, he slept and I think at about nine I also heard over the air that the rally had been banned. Then we proceeded to Durban. (30) We reached Durban the following day on Wednesday at about eleven

or/...

or so. We dropped Harran Aziz at the taxi rank where he had to get a taxi to Stanger and we proceeded to Harry Singh's place where we washed, had breakfast and had drinks. Then we proceeded to the SASO office. We stopped Harry Singh's car next to the racecourse, we parked it there and we proceeded in the Valiant to the SASO office. When we got to the SASO office I think only the typist was there and there were lots of reporters and we were told that accused No. 2 and accused No. 3 were at the BAWU office. So we went on foot to the BAWU office. When we got to the door of the lift, we saw accused No. 1, (10) accused No. 2, accused No. 3, Harran Aziz and some other people coming out of the lift. So we did not go into the BAWU office. Then we all went to the SASO office and accused No. 2 made out the cheque to pay for the car hire. We got into the car, accused No. 2, accused No. 3, Harry Singh and myself and accused No. 1 and Harran Aziz got into another car. Then we were taking the car back to Grosvenor Motors and I went and picked up Harry Singh's car on the way so that we should be able to come back. Then accused No. 2 and Harry Singh went into the offices at Grosvenor Motors and when they came out, I do not remember (20) exactly what accused No. 2 said, but something to the effect that they have decided that we must proceed to D.4.

Proceed to? -- The doctors quarters at the hospital, that is Dr Mokoape's room, accused No. 4. because we had talked earlier, that is in the car, about going to Harry Singh's place but if I think properly the reason that Harry Singh advanced was that his wife was not feeling well, which was true, at the time. Incidentally, just before we took the car back, we went - Harry Singh and myself went to a certain doctor in the area where Harry Singh had gone to ask for a medical certifi- (30) cate and the doctor was not willing to give him a medical certificate/...

certificate. Then we proceeded to D.G., we bought food on the way and when we got there accused No. 4 was not there and Harry Singh and I related the incidents of our journey to Mozambique and a discussion started now. I remember accused No. 2 sort of briefed us up on what had been happening during our absence and we also heard that the rally had been banned.

Just before you go on, do you know the name of that doctor you went to? -- Something like Valjee or something like that, I am not too certain of this doctor's name.

You think it was Valjee. Yes? Go on. -- Then a (10) discussion followed. It was felt that we had to do something now that the rally had been banned. Suggestions were thrown around as to whether we could go to newspapers and inform the newspapers that the rally would not take place. Somebody else suggested going to the radio, but I think all the suggestions were not acceptable. Well, I am not in a position of recounting everything that took place there because I for one was tired, I had not slept properly for a number of days and I sort of dozed on the bed there. So sometimes I would wake up and find them discussing, but I was not attentive all the time. (20) And then Dr Mokoape came in, I think he had come for his lunch-time or it was after his lunch-time then he found us in his room. I do not remember seeing Dr Joel Matsipa altogether. Then we had discussions on what had to be done at half past five that evening and suggestions were also thrown around and it was eventually decided that someone should go and disperse the people and accused No. 2 became the automatic choice because he had been responsible for publicity and we felt that people would be in a position of associating him with the rally if they saw him there other than seeing someone that they had (30) not heard of but be able to respond to him. Also it was suggested/...

suggested that he could approach the officer who would be in charge, but everything depended on - he would use his discretion eventually. If he thought it was necessary to approach the officer or if he thought he could just talk to the people and disperse them and something to the effect that in dispersing the people he must put in a, you know, a jab probably to the effect that well, the government does not want us to rejoice.

Did you use the words 'put in a jab'? -- A jab, you know, just make a little capital of that. Then we dispersed, (10) the meeting ended. We went back to town and I left to go to the president at that time, Colin Jeffries at his place of employment and I gave him a report of what had happened and we had a chat and he told me also what had been happening and he also indicated that he thought that Muntu had handled the press very well in my absence and then I told him about the decision that was taken at D.Q. and that we would meet for a press conference which he knew, that evening at the SASO office. Then he indicated that he would go to the rally and see if he could ... (intervenes) (20)

MR REES: I object to hearsay evidence, M'Lord.

MR PITMAN: He indicated that he would go to the rally.

MR REES: I objected to the hearsay evidence. My Learned Friend just repeats it.

BY THE COURT: Well, evidence was led that he was going to the rally. Carry on. -- He indicated that he would go to the rally and see whether he could not be of any assistance to Muntu. So I told him that - personally I did not know whether I would go to the rally or anything of that nature, so I told him that we would meet at the press conference. Then I went to the (30) BAWU office after that. I put a telephone call through

to/...

to Johannesburg, I think three telephone calls I put through to Johannesburg. In one of those telephone calls I spoke to my assistant, that is Mehlomola Skhosana. It is in the tape, but had not been transcribed.

MR PITMAN: You say it has not been transcribed? -- It has not been transcribed. In the conversation he asked me - he told me that he heard that we would carry on with the rally and I told him that no, the rally was banned. And I think he went again into the question of whether we were carrying on and I told him no, the rally is banned and, well, we ended the (10) discussion. Then I spoke about - because incidentally BPC centres other than the Durban centre, were not involved in the organisation of the rally, only the Durban centre was involved. So I had already heard that I think TRAYO in Johannesburg was willing to be of assistance since BPC and SASO meetings were banned. So we spoke about their preparations and he told me that they were working hand in hand and I told him to keep in touch with us. I do not remember whether the Reverend Mayathula found me at the BAWU office, but I left the BAWU office after five, that I remember very well and proceeded to the (20) SASO office and I think I left together with the Reverend Mayathula. When we got to the SASO office, we found accused No. 2 in the office, accused No. 3 joined us and the Reverend Mayathula took off with accused No. 2.

What do you mean by that, took off? He left? -- No, no, no.

BY THE COURT: He took him to task? -- He took him to task, that is it. He took him to task and said that accused No. 2 had no right to represent the Black People's Convention. He said something to the effect that Muntu was a young man, well, if I may try and quote him correctly here, he said 'this is not (30) a student thing, Muntu, don't think this is a thing for playing/...

playing. Here is the national organiser, a man who sacrificed his life, his career, his family, who gave you the mandate.' Now we tried to explain to Reverend Mayathula in fact I was not in and we tried to put it to him that the press had deliberately called it sort of a SASO rally and put SASO in prominently because that is the attitude we had observed in most of the cases. They tend to play BPC down and put SASO up. So we told him that this is one of the tricks of the press, but for some minutes he just wanted Muntu to explain to him who gave him the mandate to talk on behalf of BPC when I was there (10) as the national organiser of BPC. Then we afterwards explained the situation to him.

MR PITMAN: Who had? -- We had. That is, I do not remember who and who, but all the people that were there. Then Harry Singh and accused No. 2 drove to Curries Fountain to see whether there were people and they came back and reported that there were quite a large number of people and then we drove to Curries Fountain in Harry Singh's car.

About what time was this? -- It could have been 5,30 or thereabouts, I do not remember the exact time. In the (20) car it was the Reverend Mayathula, Harry Singh, accused No. 2, accused No. 3 and myself. We parked at Scala Mansions, that is next to the bus rank. Accused No. 2 and accused No. 3 went out of the car and later, well, probably a minute or so, I saw someone I knew there and I just went out to speak to that person. Then almost at the same time I saw a horde of people coming in the direction of the bus rank, that is from the stadium and well, accused No. 2 came back and he was followed minutes later by accused No. 3.

Who came back first? -- Accused No .. no, no, (30) accused No. 3 came back first. I think he came back whilst I was/...

was still talking outside there, he got into the car and minutes later accused No. 2 came back. We did not speak in the car, I do not recall us saying anything in the car and we drove back to the SASO office. Harry Singh and I dropped the Reverend Mayathula, accused No. 2 and accused No. 3 and we proceeded to Harry Singh's place. We had supper there and we came back. On our arrival at the SASO office, we found that the place had been cordoned off by policemen and when we went into the office, we found Major Stadler and some other Security Police inside and they were searching the office. Accused No. 2 was in (10) his office. I was asked for my name by one of the officers there and I gave my name. I was photographed I think about two or three times and there we found Dr Mokoape's little daughter and Mrs Phyllis Mabandla. One of the - we spoke to one of the officers and asked permission to buy food for Muntu and accused No. 2 and Reverend Mayathula who had been told they were already arrested at that time and we went to buy some stuff for them and we were allowed to leave by Major Stadler and we took Dr Mokoape's daughter along. We drove to accused No. 1's flat where we found Dr Mokoape and his wife and we (20) left the kid with them and I put up at Dr Mokoape's place for the night and Harry Singh went back to his place and he was raided early that morning.

Would you just deal with one or two points before you finish. In regard to the Black People's Convention, the concept of total change was used many times, not necessarily those words, but to that effect. What do you mean by that? -- By total change we are calling for a change in the political, social and economic institutions of the country. In other words we are calling for a normalisation of these (30) institutions. What we are saying there is that South Africa must/...

must change from being a fascist kakistocracy to an open and free society.

That word is k-a-k-i-s-t-o-c-r-a-c-y? -- That is correct. And South Africa herself in fact is committed to these goals by virtue of being a signatory to the United Nations charter of human rights.

Is that politically? -- Politically the change that we call for is that we want universal adult suffrage where every individual has the right to influence the destiny of the country on the basis of his vote in a common society. (10)

And on the economy institution we are calling first for the right of every individual to be allowed to attain things of his own choosing in order to earn a living and he must be allowed to sell his goods at a price satisfactory to him and also he must be given the right to form and belong to trade unions for effective bargaining for his rights, thereby raising the standard of living for all. On the economic sphere we hope to achieve this through Black - or through communalism. We hope that this would entail a harnessing of the national potential and a planned economy to a greater or lesser extent. (20)

And also we believe that this would outlaw the things like malnutrition, kwashiorkor due to poverty, by prevention and also by cure and at this stage I might point out to the Court that we are not communalistic because of its own sake, but we are communalistic for our aims. On the social institution, we believe that every individual must have the right to interact freely without legal restraining, with other members of the society of his own choosing. His movements and his choice of residence should be free and guaranteed. He must be able to enjoy protection by law and social institutions like (30) education, we believe that every child is the responsibility of

the/...

the State and should be provided with education free and compulsory for a stipulated number of years and this we hope to achieve not by unconstitutional or violent or the threat of such things, but as stated/^{in our}constitution uniting the Black people of South Africa into a Black political movement that would seek to realise the liberation from both psychological and physical oppression and you know, further elected not to operate inside government-created platforms. I will not go into the points because I think I have already dealt with it at length. But just to emphasise that, that we have been (10) law abiding, but we have been critical and we have opposed these nefarious and abominable laws, without flouting the authority by disobeying a single one of them. Probably to explain this point I will just hand in a letter to the Court.

What is that letter? -- This is a letter that was written by the secretary-general in 1974, Zithulele Cindi, accused No. 8, to the Labour Offices of the Non-European Affairs Department in Johannesburg and in this letter we were asking for registration as employees of the Black People's Convention. What I am trying to put across to the Court here is that we were (20) complying with the laws of the country that every employer and every employee must be registered.

BY THE COURT: What would this exhibit be?

MR PITMAN: Four E's. I hand that in.

THE COURT ADJOURNS FOR TEA. THE COURT RESUMES.

NKWENKWE VINCENT NKOMO: still under oath:

FURTHER EXAMINATION BY MR PITMAN: I think before the adjournment you were dealing with, you said not the changing by violent or unconstitutional means .. (inaudible). -- Yes, well, as I have indicated that I will not go into detail about (30) this, I have already spoken about that in my evidence.

1/...

I think you had come to the end of that point. -- I had come to the end of that point.

Operating outside the system of government? -- We were operating within the system of government.

Yes, I was referring to the allegation by the State, the suggestion that unconstitutional means is outside the system of government. -- It is within the system of government.

The way you intended to operate? -- The way we intended to operate and the way we operated.

I had passed you that letter, had I not? You have (10) given it in as EXHIBIT EEEE.

BY THE COURT: Yes, it has been handed in.

MR PITMAN: Regarding the suggestion that if the government fails to meet your demands, you people will cause a crippling of the system or a weakening of the system, what do you say to that? -- I would say that it is impossible for that to happen because what we want is the right to vote and I do not think that by being given the right to vote, the government would be crippled and when we have got the vote, who will exercise the vote to repeal the laws that are dehumanising. Of course (20) the possibility exists that the present government might be outvoted, but I think that is how governments are changed all over the place. When a government has been outvoted, that does not lead or that does not mean it has been crippled or weakened because the government of the people takes over. Just like when the United Party was outvoted, it was the government was not crippled but a new government took over.

Would you just look at the one document that you did not look at earlier but I understand you would like to refer to, the membership card, GENERAL EXHIBIT A.1 . This is in (30) regard to your joining of BPC, you referred to this document, you/...

you referred to the constitution and the membership card yesterday I think when you were talking about joining BPC. You looked at the constitution but not at this exhibit. -- That is correct.

You now look at EXHIBIT GENERAL A.1. -- I know the BPC membership card but not this one of Saths Cooper in particular.

Well, this is the same card as everybody got. -- It is the same card as everybody got. I just wanted to point out, as I indicated earlier on that every member who joins the Black People's Convention is meant to take this declaration. (10)

As it is stated there that:

"I shall at all times uphold the truth in keeping values of the Black man, I will believe in the values of the Black man, I shall always believe in equality of all men."

That is, we believe that all men are equal and will always hold onto that belief.

"I shall at all times owe my undivided loyalty to my Black community." (20)

That we will at all times be prepared to serve the Black community.

"I shall never be part to any exploitation or oppression of my fellow Black men. I shall work relentlessly for the upliftment towards self-identity, self-love and self-pride of all Black people." (30)

This is what we commit ourselves to.

"I/...

"I shall work tirelessly for the liberation of all Blacks from all existing and potential oppressive forces. I shall take pride in Black creativity. I shall adhere to Black consciousness and Black solidarity as pronounced by BPC. Finally I shall undertake to shoulder my task of making the world a worthwhile place to live in."

Now, I would say No. 9 comes in here that there has been (10) a suggestion by the State that we are against Whites. Now, from this it comes out clearly that in fact we have declared that we shall make the whole world a worthwhile place to live in and the whole world is composed of Blacks - both Black and White people.

Now, there is one more exhibit I would like you to look at please, BPC H.3, that is that letter dated 19th December, 1973, from the Reverend Mayathula to the Black people of Namibia. Now first of all, you have that exhibit before you?
-- I do. (20)

Have you seen that exhibit before this trial? -- No.

Were you aware of it at all? -- I was not aware of this exhibit before this trial.

You were a member, on your evidence, of the national executive at that time? -- Yes, I was elected at the second congress which was held, I think from the 16th December to the 18th in 1973.

It is that congress, I take it, that Mayathula is referring to there when he talks about the BPC congress near Pretoria.

-- I should think so. (30)

Are you aware of any decisions in the line of that letter having/...

having been taken at that congress or any discussions? -- May I just read it?

Yes, have a look at it. Tell me when you are finished reading it because I think I will just ask you a specific question. -- I have read it.

Was there any discussion of or decision about a tools down strike, an international peaceful tools down strike? -- No, there was no discussion on any form of tools down strike. If I may point out that as I was in the planning and strategy commission, I suppose this would have been something (10) that could have been discussed in that commission and it was never made mention of in that commission.

Was there anything about a 100% annihilation of the oppressors' economy? -- No, there was nothing about the annihilation of the racist economy.

Was there any discussion about saving up tinned foods for the day of reckoning? -- No, that was never discussed at that congress.

On the 19th December was Mayathula the - what was his position? -- Mr Mayathula was the chairman of the (20) Mapumulo branch of BPC.

And how does he sign himself in that letter? -- He signs himself as interim president/Mapumulo Branch Chairman. Now if I may point this out also that this is inconsistent because when any member of the movement is being elected into the national executive, he ceases to hold a position in the branch and for the duration of his office he is a member of the national executive.

Was he at that time interim president of BPC? -- No, he was only interim president from 1972 July, to 1972 (30) December.

Does/...

Does this letter reflect the policy of BPC at all? -- No, it does not reflect the policy of BPC, except that in the first paragraph, what he talks about, something that would generally be talked about like:

"the Spirit of Black consciousness, of solidarity, and of unity which gives us strength to fight relentlessly and untiringly against all the atrocities which are inflicted against the Black man by the white racists in this country of ours." (10)

I mean that is talk that did normally come, but it does not reflect BPC policy.

Just on the point of why Mayathula would have written like this if he were not president at the time, the two SWAPO - what he called the two SWAPO representatives, where had they come from to the congress? -- Well, as I was not involved in the organisation .. (intervenes)

You do not know .. -- of congress at that time, I am not in a position to say. (20)

To go back finally to the incident of the 25th September, you said you slept that night at Dr Mokoape's place. -- That is correct.

That was now a Wednesday night, was it? -- That was a Wednesday night.

When did you leave Durban? -- I left Durban on Saturday evening and I arrived in Johannesburg .. (intervenes)

That is the following Saturday? -- Yes, the Saturday of the 27th I think.

28th. -- 28th and I arrived in Johannesburg on the 28th - on the 29th and I went to the BPC office, I found that it/... (30)

it had been ransacked. Then I went home and I was arrested on the 2nd October.

When were you formally charged? -- I first appeared on the 31st January, 1975.

CROSS-EXAMINATION BY MR REES: I take it Mr Soggot has no questions to this man.

BY THE COURT: He will tell me if he has any.

MR REES: In fact Mr Pitman seems to have been representing all the accused for the last day or two. When you were the national organiser of BPC was one of your functions, (10) one of your responsibilities that of conscientisation? -- Well, I can put it - I can agree with you in a sense.

Was it or wasn't it? -- Well, I was responsible for maintaining contact between the various branches.

Just answer my question. Was your - one of your functions conscientisation, yes or no? -- It was.

Right. And when you wrote letters on BPC letterheads and communications on BPC letterheads or BPC paper, were these intended to be taken seriously by the reader? In other words, did you write what you intended? -- I wrote what I (20) intended.

And at meetings, gatherings where you spoke, did you speak seriously and intended people to be influenced by what you say? -- I spoke seriously with the hope of getting people to join the movement.

How exactly - I first want to deal with one or two general questions - this man Mthoping, what was his name? -- Mr Zeph Mthoping.

Oh, Zeph Mthoping. What was he at the time when you had dealings with him? -- Well, he was a member of the (30) Black community.

A/...

A member of the Black community? -- That is correct.

Or of BPC? -- A member of the Black community.

You mean he was a Black man? -- He was a Black man.

What was his ethnic origin? Was he of Indian origin or was he of Coloured origin or what? -- He was an African.

An African? -- That is correct.

From where? -- In Soweto.

Yes, but you also stayed somewhere in the Transvaal, but it appears to me you are of Zulu origin. Is that correct? --

Well, I have been told that I am of Zulu origin. (10)

Well, what do you say? Are you or aren't you? -- No, I do not know because my mother is a Swazi and my father is a Zulu and my grandfather was a Xhosa.

And this man Mthopang, what language does he normally speak? Other than English and Afrikaans. -- Well, I spoke with him in English and sometimes Zulu.

Was he a member of the Pan Africanist Congress at any stage or don't you know? -- Well, I was made to understand that he was.

When were you made to understand that? -- I do not (20) remember exactly, but during that period.

Was that before or after he was invited to come and address the meeting on the - at Kajee Hall on the 15th September, 1974? -- I would say it was almost during the same period.

I see in your evidence-in-chief you remembered quite clearly various pieces of what various people said at that meeting. -- No, I did not remember quite clearly, I just gave my impressions of what I remember, not quite clearly.

You gave us here, you said this man said that and this one said this. -- No, I spoke on what their themes were (30) rather than the content of their speeches.

Will/...

Will you tell us what was the theme of this man's speech?
-- He spoke generally on organising the people. He did not have a specific theme like all the other speakers.

I want to know what he said. How were the people - where did he say where did he come from? -- Where did he come from?

Yes. -- To the meeting?

No, no, he spoke about kwa Mashu at one stage, didn't he?
-- Mr Mothoping?

Yes. -- No, I do not remember that.

You do not remember that. -- No. (10)

He said - did he tell you how you should organise? -- He did not tell us how to organise but he was speaking on how to organise the people.

Did he tell you which groups they wanted to organise - you should organise? -- No, he just used the word Black people.

Oh, no he did not. -- He used the word Black people.

Yes, which groups of Black people? Which groups did he want to organise in Soweto, you people to start organising in Soweto? Tell us. -- No, he did not tell us to organise any group in Soweto. (20)

Did he say how the people in Soweto can be organised? -- He did not tell us how the people in Soweto can be organised.

Did he tell you which groups in Soweto were to be organised? -- He did not tell us which groups in Soweto were to be organised.

Just think a moment. Are you sure of that? -- I am sure of that.

I suggest to you that he told you you should start organising the people in Soweto from 5 years to 35 years. What do you say to that? -- I would say that is a lie. (30)

You say that is a lie. What did he say about organising the/...

the groups in Soweto? -- He did not say anything about organising the groups in Soweto.

Did he say that the people they had a ready audience, that thousands of people that was organised for them by the government ... (intervenes)

MR FITMAN: I must object at this stage. This is the same issue that I canvassed earlier with my Learned Friend. I understand that my Learned Friend actually makes a positive suggestion that this man did this and this man did that. Now, unless there is some evidence in the State case, unless (10) he has produced some witness, with respect, in terms of Your Lordship's earlier decision, he is not entitled to make these suggestions to the witness without any backing for them. He is making suggestions now about organisations in Soweto that have a very ugly connotation in this case. The same sort of suggestions that he was making yesterday about current riots that everybody knows is taking place in Soweto and unless that is part of the State case which he should have produced, he is not entitled to put that sort of suggestion to this witness unless he divulges precisely what his source is. (20)

MR REES: I submit I am entitled to ask this witness what his knowledge is of what this man said. He gave this Court at my Learned Friend's specific invitation, he gave the Court what the effect and what the gist was of the various speeches made by these various people. I am entitled to put him various propositions to test him on the extent of his memory of those events. If it becomes necessary to test him on specific issues, then that will be done, but at the moment I am testing his memory of those events. If necessary I will put specific passages to him and that can be tested, but at this (30) moment I am merely canvassing his ability to recall.

BY/...

BY THE COURT: Yes, well, I think Mr Pitman is correct, you cannot say I put it to you that he said this and that unless you have some basis for it, the basis being that there is evidence before the Court or evidence of which the Court can take notice.

MR REES: Now, I want to know whether or not this man said that - or you tell me what did he say about the youth of - or how persons travelling in the railways to and from Soweto can be conscientised or how they can be organised? Did he say anything along those lines? Now I must suggest to you (10) to be very careful. You do not know what information I may have. -- He did not say that the people travelling in trains from town to Soweto, between town and Soweto, but he was talking about the Black people and he said that Black people were all over in buses, in trains where they met and that is where we should go and talk to the people. He did not call a meeting and come to specific places. When you are in a bus, you must be able to talk to the people in the bus, when you are in a train, you must talk to the people in the train, but he did not say the people of Soweto. (20)

And did he say that he himself had come from Soweto? -- Well, I do not remember whether he said he himself came from Soweto in that meeting.

And did he tell you what groups were to be conscientised or what groups were to be organised in the Black cause? -- Well, he did not talk about groups to be conscientised, but he said that we must organise the people from the ages of 5 to 35.

And why would you say that was the group that were to be organised? -- Because he said those people have still got vitality unlike old men like himself who were just on the (30) edge of the grave.

And/...

And did he say how you people were to outsmart or outmanoeuvre the Special Branch? -- Well, I do not know whether I am answering your question correctly there, but I will just talk about what I remember on this point.

Yes, I only want what you remember, that is all I am interested in. -- He said that we should shave our beards because when the Security Police get you, they pull you by the beard until you talk and then after that the Reverend Mayathula said that there is no time to shave, there is no time to shave then. That is the only thing I remember, the beards. (10)

What did you say that evening about snakes? -- Well, I reiterated what had been said about snakes.

But I want to know what was it you reiterated? What did you say? -- That if one was given a variety of meat to find a non-poisonous one, one would die in the process.

This was referring to the White liberals wasn't it? -- Well, to Whites who were sympathetic. Well, you can call them liberals.

Yes, just explain that. What exactly did you have in mind? What were you trying to convey by this reference to snakes? -- Well .. (intervenes) (20)

BY THE COURT: Did he make that reference? -- That is what I am getting to.

Pardon? -- I did not make that reference, it came from the floor and I only reiterated it.

Yes, that is what I am saying. I gathered from the evidence that a woman made that from the floor. -- That is correct.

But now you say that he referred to snakes. -- No, no, not Mr Mthopang. (30)

Oh, I see.

HR/...

MR REES: Just think again. Didn't he also refer to snakes?
-- Mr Mthoping?

Yes. -- No, he did not refer to snakes. He answered the other question that followed.

What was the question that he answered? -- How BPC intended to achieve liberation.

What did he say? -- He said liberation will come by positive action but after he had put in a remark that no Black man can ever ask such a question because all Black people knew that liberation would come by positive action. (10)

Or didn't he say yes, but they should not ask the hows on a public meeting, not so? -- No, no, he did not say they should not ask on a public meeting, he said no Black man can ask what kind of - in other words, he was saying it is common knowledge - he was saying, if you do not know, you are not a Black man. That is the gist of what he was saying.

And what did you understand about this snake business that you reiterated? -- Well, myself, because I thought the question was directed to me initially because I had spoken on BPC and an overt people's movement so I answered the question in (20) the context of our attitude to having Whites at BPC.

Yes? -- So I answered it in that context that it is impossible for us to have Whites in our fold.

Because they are like snakes. -- Well, I did not use the snake word.

But you did, you reiterated what this person was saying. -- No, no, what happened, I used the boxer one, I said they are boxing us at the present time and we must find ways of countering that before we can be in a position of talking to them. Then the Reverend Dr Hlanas Buthelezi pursued that (30) question and then the answer of the snakes came from the floor.

From/...

From whom? -- I think it was Mrs Mabandla, I am not too certain.

Tell the Court how did BIC set about - or how did you personally set about conscientising people? -- I personally had a man to man talk with people.

What did you tell them? -- I spoke about the situation in the country and spoke about how helpless we Black people were.

What did you tell them about the situation in the country? The same general things as what you had been writing? -- It depends on the particular document, but I am just trying (10) to put a general picture here; I cannot be specific because I do not remember .. (intervenes)

What did you tell them about the situation in the country? Did you tell them that you were very happy in the country? -- No, no, no, no.

Did you tell them you were being oppressed by the Whites? -- I told them that we must do something .. (intervenes)

Now just first of all before you get to what you must do, what did you tell them about the situation? -- That is about the situation in the country. (20)

Well, what is the situation ... -- That they discriminate against us.

Did you tell them that you are being discriminated against? -- We know that that is .. (intervenes)

I want to know what you tell them. -- That is correct.

What do you tell them? -- That the present situation in South Africa has put us Black people in an inferior position.

Yes, good. What else did you tell them about the situation? -- That we must do something about it.

I want to know about the situation. We are coming (30) to what you must do just now. You say: we are in an inferior situation/...

situation. -- That is correct.

What else did you tell them? -- Well, probably I could - well, I mean I could give an example like at the moment we have only two coaches and the rest of the 8 coaches are for Whites and we are so packed. I mean, I could use things like that.

What else? Did you refer to the fascists and the nazis? -- No, I do not think I said that when I was having a man to man talk.

What did you do then? -- Well, they would ask (10) questions themselves. Then I would attempt to explain or even answer.

Like what? -- Well, one would say now what do you propose we do because we see what you are talking about, but what can we do about that? Then I would say now we must come together, here is a movement, the Black People's Convention .

The Black People's Convention is going to bring you liberty. -- That is correct.

And would you tell the Court where BPC says that they will operate outside White government-created systems, (20) what does that mean? -- That means platforms that have been created by the government as - that is .. (inaudible)

What are platforms created by the government? -- The Bantustans.

Is that a government-created system? -- That is correct.

But a Bantustan cannot be a platform. -- It is an institution.

An institution. -- Well, the system, institution, if you look at the constitution, you will find that.

Your constitution says you will operate outside (30) White created systems, structures, and institutions. -- That is/...

is correct.

Now, I want you to tell me what do you have in mind by systems and then I want to know what you have in mind by structures and then I want to know what you have in mind by institutions. So start with systems first. -- Well, those words are interchangeable really.

Why do you use them all? -- Why do we?

Why do you use them all if they are interchangeable?

BY THE COURT: Well, because they are interchangeable. -- I think so. (10)

MR REES: I want to know, what are 'systems' supposed to mean? Give the Court an example. You have given an example of Bantustans. -- That is correct.

Well, what else? -- South African Indian Council.

Yes? -- Coloured Representative Council.

Yes. -- Urban Bantu Council.

Right. Then you say structures. -- Of course those are structures.

What are systems then? -- They are systems and they are structures. (20)

And what institutions? -- They are also institutions.

What about the courts? Are they institutions, White government-created institutions? -- Courts are institutions, yes.

This letter that you put in, EXHIBIT EEEE, you put this in as an example of your working within the system. -- Of government.

Of government. -- That is correct.

Now, could you - how could you have operated without registering your employees as required by the State? (30)
-- How could we have operated?

Yes/...

Yes, wouldn't you have run into a lot of trouble immediately from the police? -- Well, I did this because it was our intention to disregard the government and operate outside the government we would not have bothered with that.

But you did not have any option, did you? You did not want to get yourselves locked up or you did not want to have problems with them because -- Yes, we had an option.

What option did you have? -- We could have just stayed without registering and said we do not recognise the laws that say we must register and we are not registering. (10)

And then what would have happened? -- Nothing would have happened.

Nothing would have happened? You do not think the government would have enforced this law? This particular law. -- The government would have enforced its laws, that is correct.

And then could you have then functioned? -- We could function.

How? -- Just like we are functioning.

How could you have functioned if you had not complied with this registration requirement? -- We could function just (20) like when BIC started they were not registered. In fact we were the first executive to register.

You see, I want to put it to you this is no example of cooperating with the government, this is merely something you did because you had to do it, you had no option. -- No, that is an example of abiding by the law that says employees must be registered.

It seems to be the only example you can find. -- I have given you plenty of examples.

Are you suggesting that BIC operated for two years (30) without registering their employees? -- Of course we did because we/...

we did not have permanent offices which was one of the requirements for operating, for being registered. They were still struggling to get permanent offices.

THE COURT ADJOURNS FOR LUNCH.

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