

MR SHUN CHE-

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

VOL 90

CASE NO: 18/75/254

DATE: 12TH MAY 1976

THE STATE

VS

S. COOPER AND EIGHT OTHERS

VOLUME 90

PAGES 5130 - 5211

LUBBE RECORDINGS (PRETORIA)

COURT RESUMES ON 12th MAY 1976

AUBREY MCKOAPE, STILL UNDER OATH:

CROSS-EXAMINATION BY MR. REES CONTINUED: Doctor, were you ever a member of the Durban central branch? --- No, I was not.

How is it they have your name on their membership list? --- Oh, that could have been initially before the Durban area was decentralised into various branches, that would have been around I think 1972.

Yes, so you were a member of the Durban central branch? --- I remember I was now, yes. 10

Now when this EXHIBIT BPC C.9 was issued, this is this statement issued by the Black People's Convention, it was issued on the evidence by Accused No.1 in the name of Roy Chetty, Sipho Buthelezi, Aubrey Mokoape and Harry Singh, when did that document first come to your attention - just look at the back there you will see who issued it? --- Well the document has not come to my attention as such, but the statement did come to my attention when it appeared in the Press. At the time that it appeared in the Press I was on vacation in Johannesburg, and I saw it in one of the weekend papers, I don't remember which now, and I noticed that it said that I had issued it, so I tried to take up the issue with Mr. Sipho Buthelezi who was then in Johannesburg, but unfortunately I could not lay my hands on him. When I got back to Durban, I took up the matter with Roy Chetty, and I enquired from him as to why he did such a thing, well I was quite infuriated by the fact that he used my name without my permission, and I received an apology / ... 20 30

apology from him.

Yes, then you know what the contents were, did you have any quarrel with the contents, or did you agree with the contents? --- Well every document is an individual effort, and it comes out in the vocabulary of that particular person who has written it. My own point of view has always been that - with regard to the Bantustan leaders - that we should not attack them personally, but that we should attack the Bantustan institution as such, and to that extent I felt that this was not really called for that we should attack the Bantustan leaders personally especially because I thought this tends to give them the publicity which they want, and of course as a Press statement I think this thing is too long, it is not properly prepared. 10

Now the sentiments that are expressed there about foreign investors and foreign investments, did you have any quarrel with the sentiments expressed there or not? --- Well nothing much really, nothing that I can pinpoint.

Did you agree with that in general? --- In general. 20

Then you see here it says on page 20, I would just like to refresh your memory - it is the first page of this document, about four paragraphs from the bottom this writer says:

"Many arguments for continued investment are advanced by foreign investors with vested interest in South Africa, one of these being that their involvement in South Africa is purely economically motivated, and that in principle they do not support the racist policies of South Africa. This 30

is / ...

is, however, a fraudulent argument and therefore not acceptable to us Blacks"

Do you agree with that sentiment? --- Except that he seems here to oppose the argument that foreign investors are here for purely economic motives.

That is right? --- I think that is not quite correct, because I think they are here for economic motives. You see he is saying here that the argument is that they are not here for economic motives - I do not think that is correct, I think they are here for economic motives. 10

Well he carries on and he says:

"Harsh reality spreads out to the Black firms - to the Blacks. Firms like IBM General Motors, Polaroid, Frank Hirsh (Pty) Limited, International Telephone and Telegraph, ITMP to cite a few, are directly supporting and promoting the oppressive apartheid - must be policies - of the White racist settlers in South Africa" -

is that a sentiment you agree with? --- Well I do not know the specific activities of these companies but I do know that for instance General Motors applies vans and things like those that ..(Mr. Rees intervenes) 20

Well we are coming to that point in a moment, perhaps I should deal with the next two paragraphs and then you can confine your reply to those:

"IBM computers for example play a major role in the police state system of classification of the people by race in order to control and oppress Black people in South Africa. They are used in

the / ... 30

the Pretoria reference pass bureau to maintain an efficient suppression of Blacks in all spheres of their lives. General Motors is also actively involved in assisting and promoting the rule by force of the White government by designing, producing and supplying police vans which are used for loading the thousands of Blacks for pass offences and permit raids. Such assistance by General Motors strengthens the police and military power" -

10

is that in fact what you wanted to state? --- Well the point I am making is that the writer of this document is attacking those aspects of the system which he sees as being oppressive to Black people and he is accusing foreign investors here of collusion.

Now in fact what he is saying is that these foreign investors by their activities here are assisting the government to enforce what you call harsh or oppressive laws? --- Yes, that is what the writer is saying.

Do you agree with that? --- Well, as for the examples cited, I have no particular knowledge of these firms, but his arguments are tenable.

20

But is that also your sentiment or not, assuming his argument to be correct - his facts to be correct? --- Yes, my argument would be that foreign investors in some spheres do assist in laws that are particularly harsh to Black people.

And you want them to be removed so that the government will have difficulty in enforcing those laws? --- Well this is not really the point in so far as

30

foreign / ...

foreign investors are concerned..(Mr. Rees intervenes)

But it is one of the points? --- No, the point in so far as foreign investment is concerned I think should be looked at from this point of view..(Mr. Rees intervenes)

Please let us not go beyond what ..(Mr. Soggot intervenes)

MR. SOGGOT: Please may the witness answer that question, M'lord.

MR. REES: M'lord, he must answer the questions I ask him and not questions he is put. (sic) 10

MR. SOGGOT: M'lord, that is exactly what he is trying to do and my learned friend is not letting him answer.

COURT: Were you busy answering the question? --- Yes, I am merely trying to say how I understand this sentiment vis-à-vis foreign investment.

MR. REES: Yes, but M'lord I asked him with reference to this particular passage here, I did not ask for his general impression, I asked him whether he agreed with this. He, with the assistance of his Counsel, cannot go off to a sidetrack again, he kept us here all yesterday with sidetracks? --- No, I think I am explaining how that sentiment is tied up with the thinking on foreign investment, because it is a whole thinking. 20

Well perhaps you can answer these few questions, then you can give any explanation you like afterwards, what I would like to know from you here is, if you look at the second page of this document, have you got it?
--- Yes.

Now if you look at about the fifth paragraph if you / ... 30

you count the top one, he starts:

"Advocates of continued investment claim that if foreign investors withdrew, this would result in largescale unemployment for Blacks. Withdrawal can only mean the downfall of the Vorster regime. Black people have pledged themselves to fight for freedom whatever the cost" -

now let us just deal with those two sentiments. Do you agree that if foreign investors withdrew it would result in the downfall of the Vorster regime? --- No, I do not think so. 10

You do not think so? --- No, I do not think that correctly represents the picture.

Now it says here:

"Black people have pledged themselves to fight for freedom whatever the cost" -

do you agree with that? --- Well he is expressing a sentiment as he sees it.

Is this a sentiment with which you or BPC agree?

--- I do not think so, I do not think so, I would not put it that high as being at whatever cost. 20

Not? --- No.

"Black people in general are prepared to suffer any consequences if this means ultimate Black freedom"

--- Well that is the same sentiment expressed there of whatever the cost, I do not think one can put it that high.

You see we canvassed yesterday the question at the Sharpeville meetings you also said that Black people are planning their strategy and Black people are prepared to 30

pay / ...

pay the price, that type of sentiment, isn't this exactly the same sentiments as those expressed by you? --- Well as I said in uttering those words I was merely trying to inspire confidence into the people, and to prepare them in such a fashion that they would be prepared to carry the burden of liberation. But it has nothing to do whatsoever with suffering any and all consequences, because that can be misleading.

Now, I want to just draw your attention to the following passage where he says at the bottom of the page, the paragraph that begins:

20

"Foreign involvement in the exploitative economic system of South Africa may be summarised as follows: Foreign investors by strengthening the economy of the Fascist regime make it possible for this minority regime to bolster its military force which is designed for the perpetual oppression of the Black people".

Do you agree with that? --- I do not think that is correct, because foreign investors in this country are playing a rather insignificant role. I think the role that foreign investors are playing is more a political one, by giving political support to the system..(Mr. Rees intervenes)

20

Is your view - yes, carry on? --- And when we do attack foreign investors it is with the hope that they will exert political pressure upon the system for a change of these laws that we see as being oppressive.

Yes, you see your problem as I pointed out to you yesterday is that you are trying to give plausible explanations to things which you did, why didn't you people

30

say / ...

say in your documents, in your publications, in your speeches what you claim now to be your sentiments, why didn't you express it that way then? --- Well, I think Mr. Rees you have got to understand we are dealing here with political matters, and political language tends to take direction of its own. You exert a lot of pressure hoping for some result, and it is something that is common amongst all politicians, when Mr. Pik Botha goes to the United Nations and says we want to move away from racial discrimination, we know he is expressing a sentiment but it is not in actual fact happening that way. Mr. Vorster says over the television that professional Black people are paid equally with professional White people...(Mr. Rees intervenes)

10

You are going off the subject? --- No, I am not going off, I am merely trying to show you..(Court intervenes)

COURT: You are trying to show how politics work? --- Yes, so that one can be misled by taking the statement sometimes of politicians at face value.

MR. REES: Doctor, have you ever had any dealings with horses? --- Horses?

20

Horses, things you ride? --- No, I do not see how I could have dealings with horses, what kind of dealings would I have with horses?

Well, have you ever ridden a horse, I just want to know? --- Yes I have.

You have? --- Yes.

Now if you jump onto a wild stallion without a bridle, he does what he likes doesn't he? --- It depends what kind of horse it is..(Mr. Rees intervenes)

30

I am telling you a wild stallion, if you try and get on him he will run with you where he likes and do with you what he likes, not so? --- I suppose one could accept that.

Yes, now aren't you people with your wild statements to the Black people in fact saddling up a wild horse without even putting a snaffle or a bridle in his mouth? --- No, Black people are not wild horses, Black people are normal people..(Mr. Rees intervenes)

Yes, but you are planting ideas in their heads, 10
you are planting ideas that they are being ..(witness intervenes) --- No, no, no.

... frustrated and ..(witness intervenes) --- Black people are not blind, they know, they see, they perceive their oppression that we talk about. Like I tried to point out, these days one does not know because he is in SASO.

All right, now perhaps we can get back - if we look again at this document EXHIBIT BPC C.9, I just want to draw your attention to paragraph 7:

"The payment of taxes to the South African White 20
minority government, and their very presence in our country means the increase in economic power and military strength of the Whites, and this is set in stamping out all opposition and Black liberation movements in South Africa" -

do you agree with that? --- Like I said my own point of view is that foreign investors play a rather insignificant role in the economy of this country, and I do not think I would agree with this sentiment that they are strengthening South Africa. I think this country is rich on its own. 30

You / ...

You see on the next page there is a call -
they are quoting some Resolution because it says:

"Therefore resolves -
to reject the involvement of foreign investors
in this exploitative economic system, to call
upon foreign investors to disengage themselves
from this White controlled exploitative economic
system"

- is that in fact what you wanted? --- What was wanted
with the background knowledge of what the real politic
is, the real politic being that foreign investors cannot
pull out, what was wanted was to exert pressure on the
foreign investors so that they in turn may exert pressure
on the local government for a relaxation of many of the
rigid industrial laws, also that they may provide
facilities for Black people, promotional facilities,
better salaries, and all these other things, and I do know
from second hand knowledge that the BPC has had dealings,
also SASO, has had dealings with foreign investors in this
direction..(Mr. Rees intervenes)

Doctor, now why did not you people say or express
those sentiments at that time? --- But you see I am
trying to give you the picture because BPC and SASO did
have dealings with these foreign investors and headway
was made, some distance was covered in terms of..(Mr.
Rees intervenes)

The only foreign investors you had dealings with -
so-called foreign investors you had dealings with as such
you got a letter from this Progressive Reform Party
politician, what is his name, this Dr. Boraine, who was

then / ...

then working for Anglo-American, and he asked you exactly what were your problems etcetera, and then somebody went to see him, that is the negotiation you are talking about? --- That is not true, I think you are not au fait with the facts there, although I cannot give evidence here of first hand knowledge, but I do know that our people went to see IBM, they went to see - and IBM was prepared I think to install electronic machinery I think at one of the colleges and to open a department for study in electronics. They went to see motor firms in Port Elizabeth, that is General Motors I think and Ford Motors, and there were talks there, and they said they see our point of view and that amongst other things they thought that trade union movements for Black people should be allowed, and they would not stand in the way of their workers belonging to Black trade unions, even if these are not duly recognised, but that is not correct that only Dr. Borraine was seen, I think quite a few people were seen, I think some of the accused will give evidence on this.

10

20

What I am interested in, did you personally partake in this ..(witness intervenes) --- No, I did not, I said so that I did not.

Oh, well then you must tell the Court...(Court intervenes)

COURT: He said so, he said he hasn't got personal knowledge, his knowledge was second hand? --- Yes, but I know ..(Mr. Rees intervenes)

MR. REES: Doctor, did you know..(witness intervenes) --- Yes I know.

3

No / ...

No, no, I am asking you another question, do you know whether or not these people pressed these foreign firms not to supply vehicles or matters that could assist the government in enforcing these oppressive laws? --- No, that is not the impression I got, the impression I got was that they pressed these investors to bring pressure to bear upon the government, the local government..(Mr. Rees intervenes)

But here you say - I am referring to page 2 of this document: - the effect of these things -

10

"the payment of taxes to the minority government and their very presence in the country means the increase in the economic power and military strength of the Whites"

--- Yes, but that there is taking a posture from which one can negotiate.

And here you say - we have also dealt with the position where you claim that they assist in the supply of police vehicles, they assist in the government's ability to enforce these pass laws, isn't that so, that is your real complaint? --- Yes, but the point is, you see, Mr. Rees, when you deal with political issues you have to adopt a posture from which you can negotiate, you say to the man: you are doing this to me, and if the man sees your point of view that thing is not correct, then you begin from there to work out solutions as to what you can do.

20

Doctor, yes, you mean you take an extreme position to frighten the other man into talking to you? --- I - not necessarily, not necessarily.

Well aren't you illustrating that you take extreme

30

positions / ...

positions as a basis for negotiation? --- You may do so, you may do so.

Well isn't that what you did do? --- Well I think here the arguments that come up clearly here in the foreign investment literature that I have read have always been that it is the oppressive and exploitative involvement of the foreign investors that the movements are against. I think there is always this emphasis on the exploitation of the Black people. It is not as if the movement would oppose foreign investors per se. So it is actually trying to speak on behalf of Black people and saying: these are things that bother Black people, and because of this we want to bring this to your attention.

10

Oh no, Doctor, you say: you get out, you see you are using entirely different language than you used in the documents? --- Well we say you have got to disengage yourself from this exploitation, and we give leeway by meeting and talking to these people for them to - for us all, the both of us, to devise a method whereby they can disengaged themselves from exploitation.

20

Your organisations said these things to the foreign governments, you said everything and in this publication, the BPC publication that was being prepared by Accused No.1 and others they said: foreign investors must get the hell out of this country, that is the kind of language you used? --- Well I do not know what Accused No.1 said, I suppose you should have asked him that, but I am telling you what my - how I see these things working. It is a question of really political finesse I should call it.

Yes, Doctor, if I understand you correctly, you

30

say / ...

say that BPC's purpose is to take an extreme stance to get a reaction from the opponents or the enemy as you call it? --- No, this is not BPC's purpose, I was merely trying to ..(Mr. Rees intervenes)

Its method then? --- No, neither is it BPC's method.

But why is it its method here? --- It is not something which can be said to be typical of BPC only, it is something that tends to happen with people involved in politics.

10

Well is this what BPC was doing, taking an extreme stance..(witness intervenes) --- But I think it comes out clearly that BPC says disengage yourself from exploitation, because Black people are being exploited.

And it gives its reasons - you see I just want to put this to you, or remind you of this, when Mr. Allaway was cross-examining Singh on this very document he put to him this summary on page 2 "foreign involvement in the exploitative system", and he said to him, he put to Singh that this is a reasonable summary of BPC's views on foreign investment. That was the attitude of the Defence at that time? -- On what?

20

Mr. Allaway put these seven points to Mr. Singh, page 2? --- Well I do not remember that, he may have.

And he said to him, he put it to him that this is a reasonable summary of BPC's views? --- Well he may have said that but I do not remember that, I am giving you what my understanding of the foreign investment issue is. I have not been involved in negotiations with foreign investors myself, nor was I involved in the passing of

3

Resolutions / ...

Resolutions on foreign investment.

You see when I first put this document to you you said you were happy with it in general, and this is in agreement with what Mr. Allaway put to Mr. Singh?

--- Well, but I am pointing out to you, I am explaining to you how I understand it.

Doctor, I understood you yesterday to say that you regard these laws that deal with the Blacks or the Bantu, whichever term you prefer, such as the Bantustan laws, the pass laws, influx control laws as harsh laws, isn't that so? --- Yes.

10

You also say the Blacks have not had any say in making these laws? --- That is correct.

And is it BPC's purpose or SASO's purpose to try and make it difficult for the government to enforce these laws? --- No, it is BPC's and SASO's purpose to try to change these laws and BPC and SASO see as the final way of changing these laws the fact that Black people should participate in making laws.

Yes, but before they reach that stage you want to make it difficult for the State to enforce these laws? --- No, I do not think BPC has ever taken that stand, not to my knowledge.

20

Now you told the Court that when a Bantu man is bumped in the street by a White man, the police arrest the Black man? --- No, I said I think if I remember correctly that if I walked out of this Court I might be bumped into by a White man, and if I challenge him he would probably call the police and the police would arrest me.

Yes, and would you just take that to its conclusion, 30

then / ...

then what would happen? --- Well I would be arrested and then maybe I would get out at the police station, it depends, it depends what strong case that man makes against me, I may have to defend myself in Court.

Yes, and what action is there open to a Black man in that case, what can he do? --- Well Black people are generally in a dead end in so far as these things are concerned, generally in a cul-de-sac.

What can they do? --- Well we believe that they can make their voices heard that they do not like this kind of treatment, and it is with that in mind that we created an organisation like BPC and an organisation like SASO.

You also say that if there is a bag snatched in West Street Durban or in Church Street Pretoria, the police would catch all the Blacks in the vicinity? --- Well, it is a way of putting it, it is how the Blacks perceive it, how people speak about it they say the place will be cordoned off, and Black people would be arrested, it is a general truth.

And what can Blacks do to stop that type of thing, if it happens? --- Well Blacks can unite in the movements that are there for them to speak for them to say: we do not like this thing.

Why can't Blacks seek redress in the Courts? --- A number of things - also tied up with this system - prevent Blacks in general from seeking redress..(Mr. Rees intervenes)

Tell us what they are, what prevents them seeking redress in the Courts? --- It is tied up with the entire

system / ...

system ..(Mr. Rees intervenes)

Just tell us? --- In the first place - well I will tell you - in the first place because of the differential expenditure on education in this country the majority of Black people have not received sufficient education and they do not know the legal processes, because of the differential in the amount of money allocated to Whites and in the amount of money allocated to Blacks.

Right, let us just canvass that one first. Now what prevents you in forming your organisation, of saying to Blacks if this happens to you these are your legal and we will assist you to enforce your legal rights, you do not say that do you? --- No, I think that is part of the spirit in the Black movements to try to tell people what their rights are.

No, but you say you are working outside the system? --- No, no, no...(Mr. Rees intervenes)

You say the policeman is a pig? --- I think you have got to understand what we are talking about when we say we are working outside the system. What we are talking about are the political institutions that have been created by the system for Black people which are not the same as the political institutions of the rest of the country. That is what we mean when we say we are working outside the system.

No, but your organisation says to a man: you must not make a statement to a policeman, you must not make a statement against ..(witness intervenes) --- Our organisation has no such policy.

Hasn't it? --- I am afraid it has not.

Doesn't / ...

Doesn't it say to the people: you must not make a statement to the police? --- The organisation has no such policy.

Just a moment? --- Not that I know of.

Doesn't your organisation say to Black people: you must not make a statement against members of the organisation? --- Not that I know of.

Well, I will look for the document and show it to you? --- Well, it may have been the source of a particular writer, but I do not think there is any policy with regard to that from the organisation.

10

You see the point I want to make with you and we can make it shortly because I want to finish with you as soon as I can, Doctor, is that you people are not encouraging people to obey the laws, but you are encouraging them to defy the police and to defy the Courts? --- I think you are missing the point completely there. When you look at things like the community programme in which we partake, the literacy schemes, the continuation classes, all these things are intended to serve a need to open Black people's eyes so that they may begin to see what their rights are and things like that..(Mr. Rees intervenes)

20

You are not dealing with my point, Doctor? --- No, I am dealing with your point.

My point is this - let us just get it clear - my point is you are not encouraging Blacks to respect the laws of the country, it is as simple as that? --- No, we are not discouraging Blacks from respecting laws at all.

You are not encouraging them? --- If anything we are / ...

30

are trying to make Blacks aware of their rights, even within the limited scope of the system. It is an entire mood in the organisation that I know of of letting people know their rights.

Would you say that it is part of BPC or SASO's policy to try and make it easy for the State to enforce these laws? -- Well, I suppose if people know their rights it might be easier for the State to enforce the laws.

How? --- If people know their rights.

Yes, well, I want to put it to you specifically that BPC wants to make it difficult for the State to enforce these laws? --- No, that is not BPC's policy, BPC's policy - at least the mood in BPC is to let people - I am sure it is just a question of lack of resources, M'lord, we would have gone out on these things to tell people about their rights as far as passes are concerned, I know there has been talk about letting people what little rights they have under the pass laws, trying to get legal representation for people that are charged under the pass laws, there has been an attempt to do this, but it is lack of resources that prevents the movement from doing this.

Do you know where SASO got its funds from? --- In general?

Where did they get their funds from? --- They get their funds locally from affiliation by students.

Where else? --- They get their funds from local ..
(Mr. Rees intervenes)

No, besides local funds? --- They get funds from abroad, student organisations and other organisations.

What organisations? --- Well one I know in

particular / ...

particular is the World University Services.

Yes? --- But I do not know if they still get their funds there, but as I say I know this in general.

What other sources? --- I do not know in particular but they do get funds from abroad.

You know when Singh went over he had a list of people that he had to go and see? --- I think it was produced in Court, yes.

Now the name of this doctor that you say you told him to go and see, does that appear on that list? --- No, I have never seen that list before. 10

You saw it here in Court? --- Yes.

Was that doctor's name written onto that list? --- No, that doctor is a personal friend of mine.

Oh. Let us have a look into your connection with the rally, now if I understood you correctly, you were concerned about BPC and SASO's image, and you enquired about the publicity and what they were doing about it, is that correct? --- Yes, amongst other things.

Well what were the other things that you enquired about that you were concerned about? --- Well I was concerned that this rally should be a success. 20

Yes, if that was so, will you tell the Court, who were the people, who were going to be the speakers at that rally? --- I do not know who were going to be the speakers.

Well a rally cannot be a success unless it has speakers who could put across the message? --- Oh, I do not think that is a detail that I did not bother much about.

Have you no idea who the speakers were going to be? --- No, I mean the organisation has its elected 30

representatives / ...

representatives to do the detailed planning for it.

Well then these representatives could then also have done the detailed publicity? --- I did not do the publicity, all I did was when I was on the scene, when I happened to be on the scene, I said to the fellows: make sure that you advertise this adequately.

Doctor, on the Wednesday, which people came to you at about lunchtime, who specifically? --- Well when I got to my room and I was in the company of Dr. Motsipa, we found there Saths Cooper, Muntu Myeza, Mosioua Lekota. 10

Is that No.3? --- Yes.

If you refer to the accused just say No.1 to 3, that will make it easier for the Court? --- Nkwenkwe Nkomo, Accused No.4.

No.5? --- No.5.

You have got the honoured number of 4, Doctor.

COURT: Well No.4 was also there? --- No.4 was also there. I found them in my room, M'lord, I think Harry Singh was there, yes, Harran Aziz was there. Those are the people I remember, I think that is about all. 20

MR. REES: Now what exactly was their problem, what did they say what did they come to you for? --- Well I - PAUSE -

Somebody must say ..(witness intervenes) --- First of all I did not get the impression that they had come specifically to me.

Well here they were, here you find a lot of people in your room? --- I found them in my room, in my flat, well my flat is, you may call it a boy's flat, it stays open..(Mr. Rees intervenes) 30

Did / ...

Did you say: Boys, what are you wanting? --- Well I said: what is the matter and they said - they wanted - they were discussing, I found them sitting discussing about what they were going to do that afternoon.

Right, well what exactly what was their problem, what were they discussing? --- Their problem was how not to go on with the rally.

Was that their problem? --- That was their problem - I can summarise it in that fashion.

COURT: But Singh had just come back from Lourenco Marques, didn't they report what had happened at Lourenco Marques? --- Well he spoke about Lourenco Marques there too, M'lord, but you see I found them already talking.

Now, was it then clear to you at that stage that they had already decided not to go on and the problem was how not to go on, is that what you say the problem was? --- That is how I read their mood.

Right, now what were the suggestions that were being made? --- Oh, the discussion went to and fro, some people spoke about going to the radio.

Well can you tell us, what was the attitude of No.1? --- Well he also was of the attitude that the rally could not go on, the rally was banned, and therefore it could not go on as it had been planned.

What was your attitude at that stage? --- Well my attitude - well before I saw them there, my attitude was that they were going to cancel the rally before I found them there in my room.

Now before this meeting in your room, when previously had you last seen Accused No.1? --- I had seen

him / ...

him on the Saturday.

So you saw him Saturday and then you spoke to him ..(witness intervenes) --- Over the telephone, yes, on the Wednesday morning.

Right. And now they came to you and their problem was as you put it how not to go on? --- Mmmm

What was Accused No.2's attitude? --- Well Accused No.2's attitude was also a similar attitude.

What was Accused No.5's attitude? --- Accused No.5's attitude was also a similar attitude but he did not take much part in the discussion. 10

Well what part did he take? --- He lay on the bed there most of the time but he did indicate that he would not like to go on with the rally.

Why did he not take much part in the discussion? --- Well I got the impression that he was rather distressed at the failure of their mission in Lourenco Marques.

Yes but now you say he said he did not want to go on with the rally? --- Yes.

But that is a matter that was not being canvassed if I understand you correctly? --- What matter? 20

The not going on, they had already decided not to go on, as I understood you the question in issue was how not to go on, the mechanics, do you follow? --- Mmmm

But now you tell us gratuitously that he did not want to go on, now I want to know, you say he did take some part in the discussions, what part did he take? --- Well he took the part of identifying with the sentiments of the house, but most of the time he was lying on the bed, and this I read to be as a result of his distress, he had travelled / ... 30

travelled to Lourenco Marques and he felt that they had been disappointed and they had not achieved anything.

What was Harry Singh's attitude? --- Harry Singh's attitude in the end was that the rally would not go on, but during the discussion to and fro he seemed to indicate that the rally should go on.

Oh, right, well if you know what Harry Singh's attitude was then it is clear now that it was not a cut and dried issue as to whether the rally should or should not go on, was Harry Singh holding on the rally must go on? --- I did not get your question? 10

Well you have just said Harry Singh said the rally should go on? --- Yes.

Then they were still discussing the question as to whether or not the rally should go on, isn't that so? --- Yes but it was not - when I said what was being discussed was how not to go on with the rally, I am talking about the sentiment of the house, the sentiment of the people there congregated.

Say that again? --- I am talking about the majority sentiment. 20

Well give us what each individual's contribution was? --- Well I have told you ..(Mr. Rees intervenes)

You have given us what Harry Singh's attitude was, you say Harry Singh said we must go on initially? --- That is right.

Right. What was No.1's response? --- No. 1's response was that the rally had been banned it could not go on.

Was that his attitude throughout? --- That was his / ... 30

his attitude throughout, of course there was also talk about the question of the plans that had initially been made with regard to BAWU.

But Harry Singh wanted to go on you say? --- That is right.

Who talked him out of it, who talked him out of it if anybody, or wasn't he talked out of it? --- The house, the people there congregated, everybody - it was a shortish meeting, probably about 45 minutes, and discussion went to and fro, to and fro.

What was No.1's attitude? --- I told you No.1's attitude was that the rally would not go on.

What was No.2's attitude? --- Similarly.

No, what was his attitude? --- It was that the rally would not go on.

Right from the beginning? --- Right from the beginning.

What was No.3's attitude? --- No.3's attitude was that the rally would not go on.

What was No.4's attitude, that is you? --- Oh!

What was No.5's attitude? --- No.5's attitude was that the rally would not go on.

What was Harran Aziz' attitude? --- He also identified himself with the fact that the rally would not go on, he did not speak much.

Well then there was not much question - why then was Harry Singh - was he trying to hold out on you people? --- Well I think he was being unreasonable.

Oh well then if he was unreasonable somebody had to make him reasonable, what did they say to him. Why did he

say / ...

10

20

30

say, why did the rally have to go on? --- Well he was being obstreperous really, he did not put forward a cogent argument as to why he thought this particular course should be taken.

What argument did he put forward, His Lordship will judge whether it was cogent or not? --- No, he merely said: we have organised this rally so far and we cannot stop and therefore we should go on, and when asked to elaborate on why he thinks so, he was unable to satisfy us.

Something like you are being now? --- Pardon?

Something like the attitude you are adopting now?

10

MR. SOGGOT: M'lord, I would ask my learned friend to refrain from making personal comments.

MR. REES: I am asking the witness, was his attitude something the same as yours is now? --- With regard to what?

With regard to your explanation of what these people said? --- I do not understand.

All right. Doctor, you still have not told us what the gist of this discussion was? --- The gist of the discussion was how not to go on with the rally.

What was discussed about BAWU? --- It was discussed there that initially BAWU would have taken over the rally, but that that plan had to be jettisoned.

20

Why did that plan have to be jettisoned? --- For various reasons really..(Mr. Rees intervenes)

What are the reasons? --- That in the first place because of the overlapping membership between SASO, BFC and BAWU the police may take the attitude that BAWU and SASO are doing this thing all together, and it was also felt that it would be rather a shabby affair if the police had to stop it even if it is held by BAWU, and the police

30

stopped / ...

stopped it with the view that it was being held by SASO.

How do you mean it would be a shabby affair?

--- I mean it would not have the proper dignity that we wanted this rally to have.

But surely these were problems that you foresaw right from the start? --- No, these are not problems that we foresaw from the start.

You say right at the beginning you people had thought that if the police should intervene you have got a method ready to fox them, you will call in BAWU ?

10

--- They were tentative plans, if I may say, M'lord, I mean people think and attitudes change depending on the circumstances.

Yes, and was it then finally decided that the rally would not go on? --- It was finally decided that Muntu Myeza would go there..(Mr. Rees intervenes)

No, was it decided that the rally would not go on? --- Yes, it was decided the rally would not go on.

Right. When did you decide the rally would not go on, what time did you decide the rally would not go on?

20

--- I decided at that same meeting that the rally would not go on.

When you went to that meeting, what was your attitude then, or when you found the people there? --- Before I met them?

Yes? --- Well before I met them I knew that there was this BAWU thing, but I was more inclined to feel that this rally should not go on.

You were more inclined to say it should not go on?

--- Mmmm

Well you have not been very helpful in so far as

30

what / ...

what the discussion was, the only man you can single out whose attitude you can give us really is Harry Singh, is that correct? --- No, there was a great deal of discussion there, as I say suggestions were put out there that we could get in touch with the radio, but it was felt that we cannot use the radio, Radio Bantu is inimical to our interests and it tends to give us bad propaganda.

Who said so, whose sentiment was that? --- I do not remember.

Can you remember anybody's sentiments except Harry Singh's? --- Well I remember my sentiments. 10

Can you remember anybody else's sentiments, any other person's sentiments? ---Yes I do.

Whose? --- Those people that were in there..(Mr. Rees intervenes)

Which particular person? --- I remember the sentiments that they expressed that they would not want to go on with the rally.

Which particular person's sentiments, that is all I want to know? --- The rest of the people who were there. 20

Which particular one's sentiments, do you know all their sentiments, can you give it to us, each one? --- No, I cannot give you in detail what their sentiments were.

Can you give me any portion of Accused No.1's sentiments, what he said? --- That we could not go on with this rally, that it was banned. There was also a condemnation of the way in which the Minister had handled this rally.

Did anybody speak in favour of approaching BAWU? --- No, I do not remember if anybody said BAWU should 30

be / ...

be approached again.

Did anybody specifically say: well there is no point in our approaching BAWU or words to that effect?

--- No, I do not remember that.

COURT: What did Singh report back about the Frelimo people down at Lourenco Marques? --- Well - PAUSE -

Was he pleased with them down there? --- No, apparently they were not too pleased because they did not receive a hot reception.

Yes, well if I gathered correctly nobody wanted to see them? --- That is what appears, M'lord, it looks like they came there in the midst of lots of preparations for this day of investiture and it looks like nobody was expecting them, and the plan was perhaps a little over-ambitious.

10

Yes, but what I want to find out, were they disappointed with the Frelimo Executive down there? --- It looks like they did not even meet the Executive, M'lord, it looks like they met smaller functionaries and they did not receive a hot welcome at all.

20

Were theyINAUDIBLE.. --- Yes, they did not receive a welcome.

Well now, why would they want to go on with the rally to celebrate the accession to power of that type of person who treats them like that? --- Well Harry Singh's attitude seemed to be that: look we have organised this thing to this extent, and I in particular have put in so much effort into it, I have been away for so long, and I feel that we should go on with this rally. It revolved more around his own personal effort that he had put into it.

30

Of / ...

Of course the rally was already fully advertised and there was very little you could do about it, going on I suppose merely meant who would then..(witness intervenes)
--- Who would then take charge and who was going to speak and things like those.

So with BAWU going on, in what manner could BAWU have gone on with it if you decided to go on with BAWU?
--- Well you see I think the initial thought here was that if BAWU ran this rally, then there would be no interference from the police.

10

Yes, but in what shape would BAWU go on with the rally? --- Well BAWU would I imagine, M'lord, get speakers four or five speakers, set them up on the platform and they speak on how they wish to celebrate the investiture of Frelimo. It would be a normal rally running perhaps one hour, two hours.

But the public would be expecting Frelimo and SASO and BPC because the rally is organised that way?
--- Well I think in that regard I would suppose the speakers there or whoever would be handling that situation would have to be diplomatic and say: well, we could not get the Frelimo speakers for this reason and the other.

20

Now, what you really had to debate was what to do about the rally, not whether you should go on or not, but what to do about this rally? --- Yes, how not to go on with this rally. Because you see in that discussion it became clear that it cannot be handed over to BAWU in the fashion that had initially been thought, because if BAWU came up there and put up its own speakers the police would just take the attitude that this is the SASO and BPC rally.

30

Now / ...

Now, if you people were all against identifying yourselves with the rally, what was there to discuss in your room then? --- It was exactly how to go with the mechanics of pulling out of this rally with grace.

Is it correct to say that you felt that the movement was then at stake, you must try and get out of this mess in such a way that it does not harm the movement? --- That is part of the reason, but I also thought that because the banning had been issued at such a late moment and because of the entire publicity surrounding this rally, that people may get there to the stadium and I did not like a situation where people would be there all by themselves without any one of our people being there. I thought that besides giving the movement a bad name this could also have the side effect of putting people in harm's way.

Well on that basis didn't Accused No.2 adopt the attitude as reflected in the telephone conversation that well you people can't just chicken out now, something had to be done? --- Well I suppose that was earlier on, M'lord, when he spoke about these things, but there on the Wednesday afternoon he was told that he should go there and try and get the people away from the stadium. What was important here was that it had to be our men who get the people away, so it has the dimension of the image of the movement, but it also has the dimension of our caring for the people.

Well you heard the evidence, he did not do that? --- Well I saw the film, yes, and I see - I do not know how long he was there - PAUSE

He / ...

He did not even shout "power"? --- Yes, he did not even shout "power" (LAUGHTER) .. I did not see him shout "power" on the film.

Well how does that tally with what you people agreed in your room? --- I do not know what problems he faced there, I'llord, so I cannot say really, but suppose I had got that mandate I would probably have got there taken a stand in front of the crowd, and depending on where the police officers were, the commanding officer, I would probably speak to him, if he was not anywhere near I would take a stand there and speak to the people and say this rally has been banned, the system has decided that we cannot celebrate with Frelimo, we deplore that state of affairs but we do not want to descend to the level to which the system wants to bring us, and therefore let us go home. That is the kind of thing I would have done if I had that mandate. 10

Did No.2 tell you that he did not have time to do anything because of the dogs? --- Yes, that is what he said, I think when I telephoned him he said there were so many dogs there he did not know what to do, he just had time to shout "power". 20

You saw the photographs where he was standing there in the crowd? --- Yes, I think I saw the photographs.

Well I did not see any dogs there then attacking him or anything? --- Yes, except that I do not know how long the entire thing took, it looks like he was there for I don't know how many minutes.

Well we had a series of photographs which showed how the people moved around. --- Mmmm - I do not know what 30

problems / ...

problems exactly he found himself in.

Well something happened there which did not agree with what you people had decided in the room? --- Yes, and perhaps maybe he let go bravely to stand in front of the people and start talking, maybe, I do not know.

That is not what he told you people? --- No, what he said was that the dogs came on him immediately when he got there, he said he was set upon by the dogs and he did not have any time.

So why didn't he go to the major who was there? 10
--- I do not know, M'lord, as I say I do not know what problems he faced himself, and I cannot say.

I think we had the photographs here showing where he was and showing the police there? --- Yes I think we had one of those photographs which showed him directly opposite I think Captain Wellman or Major Stadler or something like that. I do not know, as I say perhaps ..(Court intervenes)

Well if he went there to help the police, well he did not report to the police or offer his help? --- Well I 20
think on the question of speaking to the police that would have been discretionary, M'lord. If I got there I would assess the situation and see what it is like, whether the police have already given an order for dispersal or something like that..(Court intervenes)

It is easy to be wise after the event? --- I suppose so, M'lord, because really one was not there oneself and I cannot say No.2 did wrong, it was a situation which took place in a very short time and he had to use his own will.

Well now, according to the film that you saw the 30
women-folk / ...

women-folk were very active? --- I see from the film that some of the women-folk were very active.

But shouldn't he have spoken to the women and said: well, wait a bit we must stop this now, we must try and break this crowd up? --- Yes, it depends, I do not know whether the film shows the part at which No.2 had already arrived there, I think the film seems to stop before No.2 arrived there.

That is right? --- Yes.

Well we have the photographs? --- Yes we have the photographs, I do not know whether the activity of the women was before he arrived or after he arrived, but I do remember one photo where No.2 is standing with another gentleman hugging each other.

10

Well I think it was Colin Jeffrey? --- I think it was Colin Jeffrey or maybe another person.

So there were two members of the Executive there he and Colin Jeffrey, they could have gone up to the police and said: well we are sorry about this, but we must try and get the crowd to disperse? --- But it is something which I cannot say because I was not there on the scene, but I suppose they could have done that, M'lord.

20

If you are right that is what he agreed to do in your room? --- Yes, M'lord but as I say it is a question of crowd control and there is the question also as to what amount of courage he had in himself.

Well he went there? --- He went there, he may have been feeling - PAUSE -

Well he had Colin Jeffrey next to him? --- Yes I saw there was a film where ..(Court intervened)

30

So he was not alone? --- No, he was not alone,

Colin Jeffrey was there. But as I say, M'lord, if I..(Court intervenes)

But why did he run away, why did he not go to the major and say: well, I am sorry I was late, but this was my intention? --- I do not know, M'lord, because it looks like he was himself chased by a particular dog and ...(LAUGHTER) and he had to scuttle, it looks like it, but as I say if I had gone there I would have done something of this nature, I would have stood there and maybe spoken to the police officer, or used our own megaphones to speak to the people. I think it would not have taken two or three minutes.

10

Now you say crowd control, doesn't that go to show how explosive a crowd can be and how dangerous it is to organise this sort of thing, especially if you egg them on with placards and banners? --- Well I do not think the placards and the banners were issued for this rally, I thought ..(Court intervenes)

Well you saw the placards and the banners for the Turfloop rally? --- Well I saw the banners of Turfloop but I had no knowledge of the banners of Turfloop, but I am taking the Durban situation..(Court intervenes)

20

Well I am just asking you now as a Doctor, and you also did psychology I think, now if you have a crowd and you call them together in that spirit as reflected in the placards, now isn't that looking for trouble? --- Well, taking the Turfloop situation, M'lord, it looks like there what they have when they have these functions, they allow the students to paint their own banners, and the students come there with their own banners. But if we take for

30

instance / ...

instance maybe those banners at Turfloop represented a feeling, then we could say that there was or there could have been an explosive situation.

But if people have that type of feelings, mustn't one be very careful what you say to them? --- Then, M'lord, it depends, perhaps the banners at Turfloop were - that we have in the Court - were a very small minority of the banners that were displayed there, I do not know, I think we have about twenty banners ..(Court intervenes)

That may be so, but there are people who think that way, I mean the people who wrote the banners, and if you organised a function and the banners are there the whole day, they were put up during the night evidently, and the rally was only at 2 o'clock. Now if you see that type of banner on a campus, well it is some indication to you how the people feel, isn't that so? --- Yes, were they put there overnight, M'lord?

10

Yes? --- Yes, they were put there overnight I think, yes. Well I do not know really how the various SRCs on the campuses function.

20

Yes but now if you were a member of the SRC and you saw that type of banner in respect of a meeting that you have organised, wouldn't that be an indication to you that the whole matter must be approached with extreme caution? --- Well if it were at my campus, M'lord, I think what we would have done, but then our campus is much smaller where I was at UMB..(Court intervenes)

The first thing you do is pull the placards down? --- Pull the banners down, and ..(Court intervenes)

And won't you also say to the people: no, we do

30

not / ...

not want that sort of thing? --- That is right, this is because our campus is quite small and it is easier to find the culprits and to get at the students and we have only one yard, so you can call the meeting within two or three minutes at our campus. I do not know what the set-up at Turfloop is, it looks like it is a mammoth campus. But in Durban, M'lord, the banners that I saw for instance - and I think ..(Court intervenes)

They just advertised the meeting? --- Yes, they were advertising the meeting. 10

But didn't you people know that the feeling was so strong at Turfloop - well I think it is a convenient stage to take the adjournment, you can think about it.

COURT ADJOURNS

COURT RESUMES:

AUBREY MOKOAPE, STILL UNDER OATH:

CROSS-EXAMINATION BY MR. REES CONTINUED:

QUESTIONS BY THE COURT: Well, what do you say? --- Well, M'lord was asking me about these feelings at Turfloop.

Yes? --- Well as an ex-student myself I think what was happening there at Turfloop by those few students who wrote those placards, I think it was merely the uninhibited expression of young students on a campus. I would not say that there is a rampant feeling of hostility even at a place like Turfloop, although I hear through people talking that the campus is rather authoritarian, and that students are treated in a very strict manner there, but I do not think one would say it is a tinderbox, a place like Turfloop. 20

People who feel that way, will they listen to the police if the police tell them to disperse? --- Well - PAUSE 30

Are / ...

Are they not in opposition to the police? Well, in a state of confrontation with the police? --- No, I get the impression that when people express such sentiments as are expressed in the Turfloop placards, that these are the kind of people who would express them behind the backs of the rest of the people, and they would probably be the first to get away when the police get there.

The first to run? --- Yes, I don't think - in fact they probably feel that by having expressed this they have done their confrontation and that is all, I don't think they would be that resistant to dispersal, especially when you talk of students. 10

If they are one of a crowd they are not seen, so I mean even if they are cowards, they will use their cowardice boldly when there are a lot of people around them? --- Yes, but I suspect they would be the first to get away, H'lord.

Yes, if they are alone? --- If they are alone? Yes, one could concede that they could hide in the crowd so to say, such people, but I doubt if the students who wrote those placards would have the courage to confront the police. 20

Well they had the courage to carry a banner, despite the presence of the police, the one referring to "Frelimo killed" or something to that effect - "so Africa?"? --- Yes, I remember that banner, but I think it is important for instance that most of these placards were pasted overnight, I think that also shows a dimension of what courage ..(Court intervenes)

Yes, but I am referring to the banner which they openly carried in the presence of the police? --- Yes, I think I remember that, the cloth banner. 30

Yes / ...

Yes, with the red? --- With the red, M'lord.

Red inbetween? --- Yes. But then again, M'lord, we see from the evidence that when the police came out there to Turfloop and dispersed them from the hall they left without much trouble, and I think when they moved onto the field they were under the impression that well they have dispersed their meeting and that the police - they have complied with the police orders.

But they were still carrying banners, I mean if you disperse a meeting you don't carry banners do you? --- Oh 10 no, M'lord, in their own way of looking at it they may have thought well the meeting is sitting there and talking, and carrying a banner, well this is my banner and they cannot tell me that I shouldn't - I am not part of a meeting that is banned. I think that is how they would have interpreted it.

Yes, Mr. Rees?

MR. REES: Doctor, can you throw any light on what part Accused No.1's wife was to play at that rally? --- No, I cannot throw any light, it is something that I never discussed with him, and it was not discussed at the D.O. meeting. 20

Well you saw in these photographs she was playing a very prominent part with a BPC jersey? --- I saw she had on a BPC T-shirt and she was singing there.

She was very prominent according to the photographs? --- Yes, I suppose one could say so.

So she was definitely advertising BPC there was she not? --- Well I wouldn't know whether she was advertising BPC.

But that is the effect, Doctor, isn't it, you wouldn't know what her personal intention was, but you can 30

see / ...

see what the effect was, she was advertising BPC? --- Yes, these T-shirts are worn by BPC members, they move around with them in town and so on, I think they do have the effect of publicising BPC.

And also she was shouting there on the evidence: "White man go home, White man go home"? --- Well that is what the evidence is by some of the police, I think, who gave evidence.

Now you have you say a baby, but the baby was then five years old, the baby that you had then? --- That is right. 10

I suggest you did not know your wife was going there? --- I knew my wife was going there because my wife that very afternoon came to me to the hospital and she told me that she would be going there and she would be going there with my kid, and she said she would be going there out of curiosity, and I felt no particular compulsion to stop her. I did not because I did not foresee any kind of trouble.

I would suggest you foresaw the trouble very clearly? --- No, I did not foresee it, otherwise I would not have allowed her to go there if I foresaw trouble. 20

I suggest to you that you did not even know that she went there, you did not even realise that she was going? --- No, I knew perfectly that she was going.

That afternoon were you looking for a child or were you looking for a place to have the child kept? --- When?

That afternoon? --- That afternoon I was not looking for a child nor was I looking for a place - I looked 30

for / ...

for the child - it was after I think 6 o'clock when she had arrived at the hospital and said she had lost the child, then I asked for permission to leave work and went to look for the child.

Doctor, on this day, the banning - this is the Wednesday morning, the banning had clearly placed the persons organising this rally in a quandary had it not? --- I would say so.

And the persons in charge had to consult and seek the best advice or the best methods what to do, not so? --- Well generally they would have put their heads together to see how best to get rid of this quandary.

So in a situation here where your organisation is faced with most important or momentous decision, you go to the people on whose advice you can rely, isn't that so? You don't just go to a hothead you go to the people who are really concerned with making policy, isn't that so, as a matter of course? --- Well one would say that you would try to put every brain into the melting pot.., (Mr. Rees intervenes)

Yes, you would certainly go to the best brains, wouldn't you? --- Well I suppose you would try and use the best brains in the circumstances.

And also you would go for those who in an organisation you would most certainly go for those who had the most influence in that organisation, isn't that so? --- I think there is much less of that, you would probably go for brains which can maybe - or are tuned to problem solving, I do not think it would have much to do with influence.

But / ...

But your final decision, your decision must be taken at a top level, isn't that so, Doctor, in a matter that affects the very existence of your organisation, your final decisions must be taken at top level isn't that so? --- Well other problems have to be taken into consideration of course, the question of availability of people.

No, but let us just deal with the principle first, when you have got such a serious matter, your decisions must be taken at top level, isn't that so? Then enters into it whether they are available or not? --- One would say that ought to be.

Now I want to suggest to you that that is in fact what occurred on that day? --- Well the members of the Executive of BPC and of SASO were in and around the city and town and they consulted.

Yes, but now those people saw fit to come to you, you were consulted early in the morning and then they specifically went to you when you could not come back? --- Well as I said that - well I cannot say exactly what was in their minds, but I want to imagine that amongst other things they thought that they could make use of my brains.

Yes? --- But there was also this fact that my flat as I call it, it is a boy's flat and they would have come to it because they knew that it stays unlocked and it is a place that can be used.

Doctor, you see I want to suggest to you that the chairman or head man of BPC was overseas at the time was he not, he was not available? --- Yes, I think Reverend Farisani had gone to - I think that he was in Israel abroad.

And it appears to me, I am putting it to you that

it / ...

it appears that in fact Saths Cooper, Accused No.1, was so far as BPC was concerned de facto in charge or in control of the matters in Durban on that day? --- Well I wouldn't know that, I cannot comment on that, I do know that Mkwenkwe Mkombo was around.

Yes, they were all there, but then they went to consult with you? --- Yes, but I do not think there was anything there which may have suggested that I was the adviser, well in the first place..(Mr. Rees intervenes)

Well just pause a minute there because that is a point I want to canvass with you, and perhaps I can put my proposition clearly and you can understand. Will you have a look at EXHIBIT RALLY C please, and I want to make this proposition to you, if you look at page 9, have you got it? --- Right.

You will see that Saths Cooper, Accused No.1 phoned you? --- That is correct.

And the tenor of his message to you is: we are waiting for you from yesterday, and you must come, it is either make or break now - those are the salient sentiments he puts down there? --- Where are you reading?

Well just look at it and then we can canvass the points that I am putting to you specifically, have you got it? --- Yes.

Now the point there is that he is urgently calling on you because it is either make or break now, and you have already told us this call was shortly after 10 a.m.? --- Yes the call was in the morning.

Now look, the situation was they were in a dilemma they were faced with big decisions they had to take, so

he / ...

he calls for Aubrey Hokoape, now if you just look back and you look at the index of this document and you look at page 6, also round about 10 o'clock he calls in the same urgent vein, he calls for Mayathula, and he says: (if you look at page 6 and page 7) he says:

"You must come, very urgent, the movement is going to die otherwise"

and he insists on Mayathula coming down. So now if we look back at this index of this phone call you will see he had this discussion with Gordon in which they discussed the question of the banning at some length? --- Yes.

Then immediately afterwards he phones Mayathula, and the next phone call is to you - well I mean there are other phone calls inbetween, but the ones we have got here, he speaks to Gordon, and the next action is to call urgently for Mayathula, and then he calls urgently for Aubrey Hokoape, and he gives you both the same message: you must come down it is make or break now? --- Well I wouldn't know why he would call Mayathula, but in my instance, well I was there, I was in Durban, I had had a little hand in the rally on Saturday, and I suppose that they did expect me to assist where I could, and in the event of the banning ..(Mr. Rees intervenes)

But the whole organisation goes to you, all the members, he has got other Executive members who could have taken decisions and what-not but they come to you and they say: Mayathula come down, come down, it is make or break now? --- Well if you look at I think this same call that he makes to me in the morning, I say I will be going to SASO I think..(Mr. Rees intervenes)

Yes / ...

Yes but you say you were working the whole day and he doesn't want to hear about your problems he says you have got to come it is make or break, and he says the same thing to Mayathula. Now I want to put this to you that I suggest to you this is direct support for Singh's evidence that you and Accused No.1 and Mayathula in fact formed the central core or were the people who were in fact controlling BPC? --- I think - I do not think we are entitled to draw that conclusion from that, I for one had been out of the mainstream of BPC activities I think for 1974 as a whole.

They were certainly seeking your advice here were they not? --- They were seeking an opinion, because there was a state of flux and I would imagine they thought perhaps that I could help them with a mind, but there was also the possibility that they could not find me, I might have been in the theatre, they could not have got me out of the theatre because I could have stayed four, five hours in the theatre. When I got to my room I found them..(Mr. Rees intervenes)

Doctor, you are going off the point, the point is here the fact that you and Mayathula are the only two persons who on that day when he had the problem, he phoned and said urgently you have got to come, you have got to come? --- I think it is for my part, it appears to be within a normal range, that he would have asked me to come because I was there in Durban, I do not think he could have phoned someone in Johannesburg, or someone in Cape Town and said: you must come, we have this problem in Durban, I think it was a question of availability.

How / ...

Now you see, what I would like to know further is if we look now at the trend of your discussions here, I suggest to you that the discussion between you and Accused No.1 on that morning when he phoned you was quite clearly that you are going to go ahead with this rally willy-nilly? --- No, I think that discussion there shows a fluidity of mind at least in my mind I asked them: what are you going to do.

Well, let us see what you say here? --- At page 2, I say: what are you going to do, and he says: well we are going to go ahead. 10

He said to you first of all: "either make or break now", so you follow on and you say: "Ja, but I mean what have you decided, what are you going to do"? --- Yes well that is not an indication of wanting to go willy-nilly on.

Well we will have to look at the whole thing, if you want to look at the thing in its context? --- That is right.

Then you continue and you say - at least he does: "We are going ahead, we are going ahead, we are going ahead" - 20

that is clearly a very clear indication that "we are going ahead" --- Yes, but if one takes the context or uses the background knowledge that this thing was going to go ahead under BAWU auspices ..(Mr. Rees intervenes)

Now, Doctor, are you saying here that it was quite clear that this thing was going to go on under BAWU auspices? --- It was not quite clear, I think this entire telephone call, one can see here that it is a process of 30

thinking / ...

thinking aloud, not what can be done, I don't think there is any clarity that comes out there.

Here you ask the man what is he going to do and he says to you quite clearly and repeatedly that "we are going on", he does not say: "we are going on through BAWU" or "BAWU is going on", he says "we", and "we" is BPC isn't it? --- Well he could not say we are going ahead as BAWU, because the BAWU plan was if you may call it, it was a contingency plan which was ..(Mr. Rees intervenes)

Why couldn't he say BAWU could go on? --- ... which I was kept away ..(Mr. Rees intervenes)

Yes but why couldn't he say ..(Mr. Soggot intervenes)

MR. SOGGOT: M'lord, may the witness finish his sentence?

MR. REES: Why couldn't he say that? --- Well let me finish.

What do you want to finish? --- I would like to finish the sentence I was trying to.

Well finish the sentence? --- That is right.

Perhaps you had better start it at the beginning again? --- That is all right, I will have to start it at the beginning again anyway. That is that the plan for BAWU to take over this rally and to carry on with it under its auspices was not a plan which was openly spoken about and certainly not over the telephone because as I indicated somewhere in this same telephone call I say it is a stupid phone because we suspect that it is tapped, so he could not say BAWU is going ahead, and he says we are going ahead and he knows that I know that the stadium has been booked under BAWU, and ..(Mr. Rees intervenes)

Yes, Doctor, anyway, the point he makes here is "we are going ahead", you say you mean something entirely

different / ...

different from what is said, and that you mean things differently, because you carry on and you say:

"Ja, but ah, as far as you know this the point is that your newspapers have gone out to intimidate the people about coming.

He says: Ja, the thing is it will depend, it will depend on the number who turn up.

That is right.

If you go and you go ahead and it is an apology of a crowd, then it is no, then we decide it is a couple of hundred"

- it is always "we" deciding not BAWU? --- Of course it cannot be BAWU Mr. Rees for the obvious reason that I have stated that he could not mention the fact that BAWU was going to go ahead over the telephone.

"At what stage are you going to know whether ..

He says: Only at about 5.30"

--- That is right, those were his thoughts at that time, he said well, as I understood him, BAWU will go on with this rally if there are people, and I say but I don't think there will be people because the newspapers have intimated people from coming, and he says well if there are no people then it will just be cancelled.

Why do you then say to him "will you have started the rally by then", because if Saths Cooper is out of it how could he have started the rally? --- Oh, that you is not meant there in the singular, nor is it meant in specific reference to Saths Cooper, it is just meant in reference to the rally going on, under the auspices of BAWU.

You see you continue:

"I / ...

"I mean you are going to start the rally"

He says: Ja.

And at what stage are you going to cancel it"

..(witness intervenes) --- Yes, but the point is I was not referring to Saths Cooper, I could not have been referring to Saths Cooper because I should have known in my own mind that Saths Cooper could not have gone there to start the rally because Saths Cooper is a restricted man, he cannot attend gatherings, he is disallowed from addressing public gatherings. So, well if you look at the thing here without that background knowledge you might think that I am referring to Saths Cooper himself.

You say:

"No, no, then we are not having it. Ja, but I mean the point is that if it is.. if it is attended by very few people. No, no, then we are not having it, then we'll just say well this thing is banned, finish and klaar" -

so the whole theme of the talking here is you were going on with this thing, with a determination to go on and you would have it going on under the name of BAWU? --- Yes, but I think the point you are missing here is that this discussion occurs at about 10 o'clock when the idea of going on with the rally under BAWU's auspices was still in the offing, and here after the advent of the banning we are churning in our minds what can be done about this rally, and he is talking there about BAWU going on and I am asking will you go on, are you going to go on.

Yes but you see you did not have a communication with him after - this is your first communication with him?

No / ...

--- No, - well with him, yes, I had not communicated with him, but I had been to the BAWU office - I think I say that in the beginning of this telephone call: "I arrived late, I went up to BAWU, I went up to SASO" - that is at page 9: "I had been to BAWU and I had met people there and I knew that ..(Mr. Rees intervenes)

Well who were the people in charge of the BAWU office, that was Mabandhla and Mbayo was it not? --- Yes, and some other people were there.

And Accused No.1? --- Well Accused No.1 I do not know what is his particular position in BAWU. 10

No, but they were in fact the only people you can think of that you would have had dealings with in BAWU? --- No, Mabandhla and Menze, yes.

Mabandhla and? --- Menze.

Menze Mbayo? --- Mimm

No, but these people were both members and supporters of BPC? --- Mabandhla had been a member of SASO.

And of BPC? --- I do not know if Mabandhla had been a member of BPC, and I know that Mbayo had been a member of SASO too. 20

Yes. --- In fact it was that kind of problem that caused us to jettison the plan to go on under the auspices of BAWU ..(Mr. Rees intervenes)

When did you discuss that? --- When did we discard it?

When did you discuss that kind of problem? --- That was at the DQ meeting, it was one of the things that caused us to jettison the plan to go on under the auspices of BAWU.

Anyway you carry on and you say:

"How are you going to judge exactly to stop it.. 30

before / ...

before or after because you know it is a meeting and maybe people will only arrive there by 6 o'clock in big numbers.

Saths: Ja, well, we'll just have to wait and see.

You say: By the way, have you prepared a statement in case you have to cancel it"

--- That is correct.

Now, all still referring to Accused No.1's action in the context of SASO/BPC, or a statement in case you have to go far away" - what does that mean "or a statement in case you have to go far away"? --- Well, by that I meant in case some of them - the police come and impound some of them and arrest them. 10

You mean some of them are arrested --- Some of them are arrested, yes. But you see, I think you are missing the point there again, Mr. Rees, the continual reference to "you" there is not Saths Cooper singularly.

Right, "if you have to cancel it it is not going to be said by us the cancelling is because it is banned"? --- Yes, there we were thinking about the mechanics of the statement that would have to be issued. 20

You say:

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

--- That is when the siren struck.

Now you see here is not a thought here of BAWU, you say "if we cancel it then we are going to say blame them" not so? --- Yes, we were looking into how a Press statement could be formulated in the event of the thing not going on.

And that continues: 30

No / ...

"No, we can't say we don't confrontation, we don't talk about it" -

you see, your dilemma there was and his was that you did not want to say to the people: we are not seeking confrontation, because that would damage the image of your organisation? --- No, no, no, that was not - I didn't have that problem and I don't think Saths Cooper had that problem. I said if we cancel this rally we could say we did not want confrontation that is why we are cancelling the rally, Saths Cooper says: no, let us not mention confrontation, and I understood this to mean that he did not want the use of the word like confrontation..(Mr. Rees intervenes)

Why not? --- Because people can fixate especially the system as they have done in this case.

How do you mean they can fixate? --- They can latch onto it and say: you used the word confrontation, you must have had sinister motives.

Well if you say: we are not seeking confrontation that is why we call it off, how can somebody then impute sinister motives to you? --- They can, it is written very clearly in the Minutes of the Edendale conference and yet the State has given it another interpretation.

But why are you then afraid of it here, you didn't know what interpretation the State is going to give to it? --- Well as I say this is how I understood Saths Cooper.

Why were you and he afraid of the word confrontation? --- No, no, I said, I suggested it, so it wasn't a question of my being afraid, I suggested it I said: let us say we don't seek confrontation, let us cancel this rally and say we can't go on because we feel if we go on there will be

confrontation, ..(Mr. Rees intervenes)

What was he then afraid of in the word confrontation, you seemed to agree with him there? --- Well, yes, as I understood him, as I understood him.

Tell us again how did you understand him? --- I understood the sentiment there to be that if we use the word confrontation the system could latch onto the word confrontation and say in the circumstances of this rally you talk of confrontation, it means you must have had something fishy up your sleeve.

Oh well, is that the sense in which he used it at that first meeting then that you had something fishy up your sleeve? --- No, that was not the sense at all in which we used it at that meeting, at that meeting there was - well, when we used it at that meeting there was no - we were not faced with such a situation we were in ordinary deliberative sessions of congress ..(Mr. Rees intervenes)

Well what had happened then in the meantime to make you shy of the word confrontation? --- It was not what had happened in the meantime, it was that this question of the rally was a rather topical one. It was in everybody's focus.

It was, so was this formation of BPC, Doctor? --- No, it didn't have the element of controversy that this rally had.

You carry on and you say:

"Ja, but I mean that whatever the situation is they have to cancel it, and you insist that we must blame them. We must blame them"

and you complete that:

"We / ...

"We suspect that they had a motive of creating another Sharpeville or something"

those are your sentiments? --- Yes.

You had this confrontation and Sharpeville was very much in the forefront of your mind? --- Yes, but you see you are fixating on it in the same fashion that I think Saths Cooper was afraid that it would be fixated upon. I was saying: if we cancel this rally let us say that we did not want confrontation and that we suspected that they were staging us for a confrontation, so we cancelled it because of that. That is what I was saying, but you are trying to say that I had confrontation and Sharpeville at the forefront of my mind and that is what I wanted, and I think this is exactly what Saths Cooper was afraid of when he said: no, let us not use the word confrontation, because he was afraid that the system could test it and look at the opposite side which does not exist.

Yes, Doctor, but you - you, it was in the forefront of your mind, you first came up with confrontation, then he said: no, we won't mention confrontation, then you came with an alternative, you said: then we'll say we knew they had Sharpeville in mind? --- Mmmm, correct.

So, what is the effect, you are giving him advice there aren't you? --- I am not giving him advice at all, I am merely - the two of us are merely trying to churn in our minds a proper construction for a statement that would be issued.

Well first of all you say: we can say we seek confrontation..(witness intervenes) --- No, no, no, no,no,no, no,no,no, I never said that....LAUGHTER..

Well / ...

Well what am I reading there? --- No, you read quite incorrectly.

We say we can't say we don't seek confrontation - we say we can say we don't seek confrontation"? --- We don't seek confrontation, not that we seek confrontation.

Well perhaps that was a misunderstanding. You say, your first bit of advice to him is: "we can say we don't seek confrontation"? --- That is right, it is not advice, as I say we were thinking aloud, both of us, we were throwing in opinions as to how to construct a statement. 10

If this was not advice, Doctor, what was it? --- It is an opinion, that is all.

Oh, so you were then expressing the opinion ..(witness intervenes) --- That if we have ..(Mr. Rees intervenes)

You were expressing an opinion for him to make use of? --- No, an opinion is not a finalised idea, an opinion ..(Court intervenes)

COURT: It is stating a point of view? --- It is stating a point of view, that is right, which can get developed, can get discarded. 20

MR. REES: All right, you say you stated the point of view that : we can say we don't seek confrontation? --- That is right.

So he says: oh no, we are not going to talk about confrontation? --- That is right.

Therefore that opinion or whatever you would like to call it is now not accepted by him? --- Yes.

Then you say - in the forefront of your mind is still: we have got to blame them? --- That is right.

And it would have been quite in order of course if 30

you / ...

you could have persuaded him to say: we are not seeking confrontation, that means the other side - we are making our position very clear, we don't seek confrontation, we don't want a situation that can cause any kind of disaster not so? --- Mmmm

But he says: we can't speak of confrontation, so you said: but we have got to blame these people, that was in the forefront of your mind, isn't that so? --- Well the truth of course was that the blame did rest with them in so far as this rally is concerned, it was not as if we were inventing a blame. All I was saying is that the blame rests with them and I think it must be properly constructed that it does rest with them. 10

Right, now then you say, right, you want to blame them and you say it properly rests there, I am not going to quibble with you about that, but then you say:

"Ah, we can say we suspected that they had a motive of creating another Sharpeville"

so that is how you wanted to blame them? --- Well the point is I wanted the blame to rest where it belongs, yes, and there was of course the question that the entire handling of this rally at the top level, Ministerial level, had been very very shabby ..(Mr. Rees intervenes) 20

But the government ..(witness intervenes) --- No, no, it is important..(Mr. Rees intervenes)

The government hadn't tried a Sharpeville, Doctor? --- This is important, you have got to see how I was..(Mr. Rees intervenes)

The government did not try a Sharpeville.

MR. SOGGOT: M'lord, the witness is struggling to finish his sentence. 30

I / ...

--- I am trying to open a window to him so that he may see how I was thinking.

COURT: Yes, give him a chance. --- This rally had been first publicised on the Saturday, I think, yes on the Saturday. The police must have known about it on that same Saturday. If the Minister wanted to ban this rally properly he could have issued such a banning order any time during that weekend right up to Monday, but the banning order only became very clear on the Wednesday, and my own thinking was that this dithering manner in which he finally banned the rally indicated that they might be wanting to stage us so that the SASO and BPC group do something wrong so that they may have an excuse to ban the movement or something of that nature. This is also connected, M'lord, with what I spoke about yesterday when I said in answer to Mr. Rees that if the police had this belief that we were out for a breach of the peace, they had been listening to our telephone, why is it that they did not approach the SASO and BPC people on the Wednesday, or even on the Tuesday to find out what the matter was, instead they go to Curries Fountain and there sort of waylay the SASO and BPC, and it was in that context that I was saying: these people might be wanting to stage us for a thing that may lead to confrontation so that we may be blamed.

MR. REES: Doctor, did you believe that the State was wanting to stage a Sharpeville? --- I had a suspicion that they were staging us to do something wrong so that they may have an excuse to ban us.

Did you believe that they were wanting to stage a Sharpeville? --- Well not really a Sharpeville as such.

Did / ...

Did you believe they wanted to kill the Black people? --- I had a suspicion that they were intended upon making us do something wrong so that they may have an excuse to ban us.

Did you believe that they were going to shoot any people there? --- No, I wouldn't say rightly so.

Then why are you prepared here to say that the government was wanting to stage a Sharpeville? --- Well I was expressing an opinion based on a suspicion, and as I said again this was not a finalised idea, it was a rudimentary opinion which I was churning in my mind, with a view to constructing a statement.

But then you continued, you said:

"Ja, well, this is the thing - he approved of your bright idea about blaming the government for wanting a Sharpeville, he said:

"Ja, well this is the thing - and you said: Ah - ah, we did not want to be any party to it -

your words: And he says:

"Mmmm" - and you continue:

"Or that we heard rumours, we can even go ahead that we heard rumours about mobilising" and he confirms, he says:

"No, of course this is true because I believe mercenaries have been thrown in and volunteering their services" -

so that must place the matter in a new context, isn't that so? --- No, no, no, I think again you are glossing over this point that this telephone conversation had no finality to it,

it / ...

it was as if we were having a little private discussion and trying to formulate ideas, and what appears here would not necessarily have appeared as the final statement.

And then ..(witness intervenes) --- And another thing of course which I need point out here, I was also thinking of rendering our movement completely blameless even of that ban.

Yes, you see here you say at the bottom:

"Ja, now the other thing is we have got to have something good to say about this if these guys don't riot"

now that is about the guys from L.M. Then your suspicions are as follows:

Ja, well, we .. it is the ban.. it is the ban that is all.

You say: Ja, well, ja, I suppose.. you can also put in that ..uh.. turned back at the borders or something"

you were just prepared to lie to the public, wasn't that so? --- No, no, no, no, I wasn't, there was this suspicion that we could have been arrested, it was not completely without foundation.

Well, Saths says:

"No, well the point here I suspect is that they had been arrested.

You say: Uh...

Saths: I suspect they have been arrested.

Ja, you see, so this is it, anyway we'll see this thing.. here is.. we'll judge by the attendance and then we'll..."

So you see the point comes here again you people are - have been / ...

been discussing first of all in this discussion, you first discussed the question of going on, and if you are prevented from going on then you must blame the government, and you say: what do we do about these guests of ours who are coming from Frelimo and you say: well maybe they have been arrested, and then you go on, the next problem you two are discussion: we'll see this thing, we will judge by the attendance. Well the question becomes clearer now that in the minds of both of you the idea is if there are just a few people you are going to cancel it? --- Yes, but I don't think you can attach that much value to this conversation of 10 o'clock as to what was going to happen at the Curries Fountain, because later a meeting was held and some other ideas came forth, and ..(Mr. Rees intervenes)

10

Doctor, we ..(witness intervenes) --- As to the expression there of suspicion, they were suspicions that we thought that these people had been arrested on their way to Lourenco Marques or when they came back from Lourenco Marques with the Frelimo speakers, the Frelimo speakers were turned back, because I think Harry Singh was supposed to have been back by Monday or something like that.

20

You see you continue here, Saths says - or you say:

"I'll try to run into town for about an hour or something, I am on intake today but I'll speak to the guy I am working with"

- in other words you wanted to make some arrangement? --- You are reading where?

I am continuing where I left off just now, page 4 of the document, page 12 of the papers, he continues:

"Just speak to him, it is urgent because we - we're taking / ...

30

taking some ..we're doing some drastic things which I.. we can't discuss on the phone" -
is that so? --- That is what he says there but as I say although I don't know exactly what he meant there, I think it was still in the same spirit of it is make or break, he was just saying that important issues are being taken, and we would need some assistance.

He wanted your advice and assistance? --- That is right. But not advice in the sense that you want to use it, that I have become an adviser to the movement. 10

Oh, is that why you are so shy of this word advice? --- Oh well - no, it is a thing you have alleged, Mr. Rees, and it has got no basis.

Is that why you are fighting shy of this word advice? --- No, it is not why I am fighting shy of the word advice, but the fact is that you have alleged that I am an adviser to the movement and I am not an adviser to the movement.

So you won't even admit that you gave them any advice at all? --- Well I was expressing opinions, I think 20 if you look at these things you can see that these are opinions, there is no finality about what I am saying there.

Of course there wasn't, Doctor, perhaps you are slightly misunderstanding, I am interested in what your state of mind was? --- No, but you also seem to be interested in the fact that I was giving advice, and that ..(Mr. Rees intervenes)

That is what you are trying to steer clear of?
--- Well I am not trying to steer clear of it, I am merely trying to elucidate the matter. 30

Right / ...

Right, Doctor, that is your privilege. You say:

"Ja..ah..you are phoning from the office.

Ja the other thing that I .. I was suggested is you are phoning from your firm there.

He says: Uh..from BAWU..

You say: That is a stupid phone anyway, I can't tell you things I wanted to tell you"

--- Yes, because I think it is tapped.

He says:

"So you'll have to come" -

yes but you did not know up to that moment that he was speaking on this phone? --- Yes, but I didn't know that it was tapped already but I did suspect that it could have been tapped.

So you say: "Ja, for an hour", so you arranged you were going to see them for an hour? --- "mmm.

Well then they had some reason to think that they might well find you in your room, if you can't come down for an hour maybe they can go and anticipate? --- No, in fact we could have missed each other because they came at lunch-time and I could have been going to town to see them.

It shows how anxious they were to get your advice, Doctor? --- But then it points out there that there was no certainty that they would find me in my room.

Well now:

"Quite. . ah.. an intelligent brainwave, you know.. ah.. which was.. gonna fox these guys, and I think we can still use it. Well, we have got that too but we decided against it because now it will appear that we are seeking the easy way out"

Well / ...

Well, you told us yesterday what you claim that intelligent brainwave was? --- Yes, well in my mind I thought that we could bring a Court order to invalidate the banning of the rally, especially in view of what I mentioned, but I don't know what Saths Cooper understood me to be saying there, because he says: "Well I am thinking of the same thing and I feel we can use that, we will be taking the easy way out", but I think that is an important thing there, Mr. Rees..(Mr. Rees intervenes)

Yes but you don't know what he was thinking?

10

--- Yes but I think there you find an important index there of "that is what I am thinking", I am thinking of an intelligent brainwave to fox these guys, and that is not consistent with what you are trying to impute, that I was thinking of confrontation. What I was thinking of, I was thinking of a way in which this meeting could be held..(Mr. Rees intervenes)

You wanted to out-manoeuve the police whatever you did? --- That is right, it was a question of out-manoeuving, there was no question therefore of confrontation, 20 because confrontation and manoeuvring are exclusive mutually.

No, Doctor, you manoeuvre until you get into a favourable position and then you confront...LAUGHTER..

--- I don't accept that.

You keep manoeuvring and manoeuvring until you are in a favourable position? --- No, if you are a Black person you manoeuvre all the time because you haven't got the power to confront.

I see. Then you say: Ja, and he says:

"You see we don't want to do that, we have got

30

to / ...

to too(?)...I think we are thinking on the same lines"

--- Yes, but I don't know whether we were understanding each other, I can't say.

"But the thing is we don't want it to appear as if we are...Ja..this seems to be the easy way out.

Now tell me. ..ah... ja.. and who is at 86"

well 86 you have told us is the SASO office? --- 86, Beatrice Street, yes.

"Very few..who put...

10

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

--- Well that again is inconsistent with confrontation, I am merely saying that people must try and put themselves out of harm's way.

You see, if that is what you say it is then that is a piece of sound advice you have given them, isn't it?

--- Well it does open a window into my thinking.

Then you say: "They ought to be terminating their services today altogether"

20

what do you mean? --- Well I was saying there that those at the SASO office like No.2 and No.3 because of the possibility of drastic action, and here I was thinking of banning orders, them getting arrested, I was saying they should get themselves away from that place. I wasn't being too..(Mr. Rees intervenes)

Oh, I see, it was a not too subtle code you were using, you were saying they must get moving? --- They must not be there, yes, because they can be arrested just like that.30

How / ...

Now, Doctor, let us have a look at the other speeches you made there - at least the other telephone calls that you referred to. I think you referred us - Doctor, I just want to round this thing off, this telephone conversation we have just dealt with, that was in the morning shortly after 10 o'clock? --- Yes it was around that area. I think the siren there which strikes whilst we are speaking is for the morning tea.

And then Mayathula had been phoned very shortly before that? --- Well that I do not know. 10

Well just have a look please? --- That I do not know, well I do not know, Mr. Rees, I don't think I can say that.

Well on the record here it appears so, I am just informing you of this in case you want to make any comment? --- Yes, I cannot confirm it.

And then you can see on the record too page 2, that ..(witness intervenes) --- Mr. Nyeza speaks to Gordon.

He also spoke to Gordon, and there they discussed in some detail this banning order? --- That is right, I think I remember that. 20

Then the next thing that happened was that you visited - at least you were visited by the people and you had your discussions? --- That is right.

And then, how did you people part from one another? --- Well I went to my ward where I work, I was on intake and I was working throughout day and night.

You then realised that Mayathula was on his way? --- No, I didn't know, I didn't know that Mayathula was coming at all. 30

Did / ...

Did they not tell you? --- No, they did not.

Then the next thing that you were involved in, what was that - at least let us just get this clear, at this meeting this Gong or Chong or whatever you would like to call him, or China, was sent to go and or went to go and see what was happening or how many people there were and to report back? --- Yes, China was to go to Curries Fountain and see if there were people there.

And then he would report back to SASO or some of these people? --- And then he would report back if there were many people there which necessitated our going on with our little package plan, he would inform the office.

10

Then, what was the next discussion that you had? --- Then I spoke in the afternoon to Bawa, I think it is.

Now you phoned them? --- I phoned, yes. That is right I phoned.

And you told the Court it was about 5 p.m.? --- I estimate it to be around there, but - let us see - yes, it was round there, M'lord.

You first spoke to Bawa and then you spoke to Patrick Lekota and then to Harry Singh? --- That is right in the same call.

20

Your memory as to the events concerning Harry Singh seem to be fairly clear is it? --- Well, it is as clear as I can remember, I don't know if it is fairly clear really.

I want to suggest to you that ever since Harry Singh gave evidence you looked at him in an entirely different light? --- Well, he has struck me as someone who is prepared at some pressure to twist the truth.

30

Ever / ...

Ever since he gave evidence you have looked at him in an entirely different light, is that so or not?

--- Well I have no animosity against him.

You still haven't answered whether or not you look ..(Court intervenes)

COURT: Well he is really asking, have you changed your mind about Harry Singh? --- PAUSE - That is a difficult question, M'lord, I really don't know because you see one has to think of the conditions under which people are kept in detention and the pressures that are brought to bear upon people in detention. The conditions there of physical abuse, humiliation and dread, living in a state of continual dread, and that he may not have had the resilience to resist and therefore it is difficult for me to say whether this man is intrinsically bad now and I have changed my mind about him, or whether to blame the pressures that were brought to bear upon him. 10

I think what Counsel wants to know is whether you think that he has changed his story? --- Well in so far as the facts are concerned, M'lord, in the case he has changed them quite considerably. 20

MR. REES: Now you were friendly disposed towards Harry Singh weren't you before he gave evidence --- Yes I was friendly disposed towards him.

You thought highly of him? --- Well, not particularly highly, he was an enthusiastic gentleman, he was - I knew him at some distance, I had some dealings with him within the BPC, for instance we addressed a meeting together at Kajee Hall where I was chairman.

He was a trusted member of BPC? --- He was an 30

ordinary / ...

ordinary member of BPC, he did not enjoy in my view any special position of trust.

But he then went over to collect money for you people and you gave him your friend's address? --- Yes, because that is an ordinary activity of the movement, he was not a confidante of mine, he was just a man I knew within the movement.

They even appointed him as acting public relations officer? --- Well that I wouldn't know about because I was not involved in that.

10

So he must have been a trusted member of the organisation? --- Well I wouldn't know because I wasn't there at the conference and so on.

You regarded him fairly highly didn't you? --- Well ordinarily, ordinarily as a member of BPC, and enthusiastic member of BPC.

You say now that he has given evidence you don't think so highly of him anymore? --- No..(Court intervenes)

COURT: He doesn't know how to judge him because he doesn't know his circumstances. --- Yes.

20

MR. REES: Then why do you come out and say that this man had committed an indiscretion and he wanted treatment from you? --- Well this is what he related to me and I am relating what he related to me.

What did he ask you for, what was the kind of treatment that you could give him? --- Well I could give him an antibiotic injection, I could give him antibiotic pills, it is a thing that I would have discovered when I examined him.

What was his approach to you, what did he say to

30

you / ...

you? --- Well he told me that he had been to ..(Mr. Rees intervenes)

I don't want you to go into the details..(witness intervenes) --- He had engaged in an indiscretion.

And then? --- He wanted treatment.

Is that all he wanted from you? --- Well he also wanted a medical certificate which I made quite clear to him that I could not give it, I did not have the power to give it, and the organisation at my hospital is such is that I cannot give him such a thing because all these matters are handled through a central registry.

10

What he wanted was a medical certificate..(witness intervenes) --- No, he also wanted a medical certificate, I made it clear that he can't get a medical certificate, a retrospective medical certificate, I think that is important, a retrospective medical certificate, and so it was quite clear that I could not give it. But as to giving him treatment there was no problem about that, I could give it to him.

COURT: For what purpose did he want the certificate? --- He had been away from work.

20

Oh I see, to explain his absence? --- That is right.

MR. REES: So you confirm his evidence in that regard that he in fact wanted a certificate from you to explain his absence? --- He did want a certificate from me, but I was unable to give it to him. I was unable to promise him one.

You were unable to do so legitimately? --- I was unable to do so altogether.

No, you can in fact do so underhand as it were couldn't you? --- No, I could not.

30

Court / ...

COURT: His profession was at stake? --- And besides, M'Lord, besides the ethics there, it is also that all these matters of workmen's certificates are issued by a central registry, because I think the reasoning behind this is that the hospital cannot afford doctors doing this kind of thing, and spending a lot of man-hours writing our certificates. So what the doctors do they write on the admission card of the patient what they think is wrong with him, and then the card with the date of his admission is sent to central registry.

10

MR. REES: Doctor, that is good and well, but Harry Singh says he wanted from you a certificate? --- No, no, he did, that I agree.

You see I suggest to you that where he phones you at page 94, the matter is not for treatment, the context in which he is speaking is a person who wants something and I suggest to you as he says he wanted from you that certificate, whether you were going to give it to him or not is another matter, because he says here at the bottom of page 94:

"Hullo, wie is dit.. you are organising that thing for me, hey.

20

You say: Ja... good .. good.. don't do it I am coming there. Don't do it I am coming there"

In other words don't send it to me I will come and fetch it.

"You don't come here.

Oh, shit, now what are you going to do because I am sure you are going to be real .. uh..in a busy situation up there. Ja, but Aubrey, I need it very urgently.

No, no, getting it, you will definitely get it.

30

He / ...

He says: "I'll have to go with it. Right so. Ja, all right, nè. So, will I meet you. You have to come to the ward. Okay. Because I am doing intake. Okay, then ja, right, bye". Then he continues: "Well, uh..you have organised everything there. Harry: Ja, we are just waiting for you no, the communication we talked about.." Now communication we talked about is clearly this little document he wanted? --- No, no, no, no, no, no, no, you are missing the point completely there, the communication we are talking about there is Dr. Motsipa going to tell them about the fact that there were people at Curries Fountain, and when I say you have organised everything there, I am talking in the context of their being ready for what is going to happen in the afternoon, and I say: "Don't come here, because I think you people out there should be very busy, don't come now here", and he says: "Yes, but I have got to get that thing urgently" - I don't think it is surprising for a married man to want a thing of this nature urgently after coming from a place like Lourenco Marques.

10

Yes, Doctor, I put it to you quite clearly again this this man was here talking about the certificate that he wanted from you? --- No, no, you are missing the point.

20

And I put it to you further that all you were trying to do here was to try and slander Harry Singh, that is all? --- Where did I try and slander him now?

When you said he was being treated for venereal disease? --- No, I have no reason to slander Harry Singh, I am merely alluding to it in the context of my profession disease can never be slander. If a man is suffering from disease he is suffering from disease.

30

Yes / ...

Yes, Doctor? --- It is not slander, if you have got tuberculosis you have got tuberculosis.

We go back to your telephone call on page 92, why did you want to phone them then? Why were you wanting to phone them? --- Well I think primarily I wanted to phone them to learn what the situation was in the office, and I think primarily at Curries Fountain as to whether there were people or not.

Now, you see Lekota tells you at the bottom of the page, you ask him:

"Wat sê daardie storie" Lekota says:

"Uh...net hierso, jy sien die ding is die boys hulle, die boys is hierso, daar is baie mense daar by, daar is ook 'n "army" daarso. Ek hoor die hele army is daar. Ja, en daar is 'n groot mob van mense daarso. Moenie sê daar is baie mense Jack... Uh...daar is baie mense daar. ja man... ek sê ons moet net aangaan, dit is boggerall dit is al wat..dit is al man".

Now that is a very clear indication of what your sentiments are, you must go on, you must go on? --- Well the sentiments here that I expressed are with respect to the package plan that we had. Of course one has to realise also that here I was trying to inspire confidence into these people, because there had been talk, maybe I did not mention it this morning, at the doctors' quarters, that we just do not go to the stadium at all, but it was felt that no, that would be improper.

You see, you wanted to speak to Muntu Nyeza, you wanted to speak to Muntu Nyeza? --- Yes, I think it says so

here / ...

here in the middle of the page.

Yes, and then you say..(witness intervenes)--- And then I couldn't find him and I spoke to Lekota.

Well you thought they might want to go on under the banner of somebody else, and surely you would have phoned Habandhla or Mbayo, one of these people? --- No, no, I wasn't speaking here about going on under the banner of BAWU at all, I was speaking here in the context of their going there to the stadium, and there seeing to it that they are present there, and seeing to it that they execute the plan that we had. 10

Is that why you say the words: "Ek sê ons moet net aangaan"? --- That is right, daar is boggerall anders wat ons kan doen. By that I mean we had no alternative.

Right, then you say on page 2 where he tells you: "Ja, hulle het die gates ge-block...uh. hello Mac, en wat gaan aan, ek hoor hier, ek sê daar is baie, daar is baie mense, Jack. Daar is baie mense? Daar is baie mense, man, moenie sê nie. I tell you man. Ah, nè, ons gaan aan" 20

those are your sentiments:

"Ah, nè, ons gaan aan, ons gaan aan, ons gaan aan"

--- That is correct, and we speak in the context of our contingency plans that we have for that afternoon.

"Ah, sê my, are you the people, eh, have the people been able to get inside this into the..."

--- Oh yes there I am enquiring as to whether are the people in the stadium or are the people outside, and I am saying that if there are people there we have no alternative we just have to be there. 30

You / ...

You say: "Nee, ek sê ons moet aangaan, ons moet nè, ons moet, jy sien die stadion is toegesluit en dit is net die polisie wat daar staan...jy sien". You say: "Ho, they must be there because I hear from some of the girls who went to town that there were lots of police in town today. Ja, groot police army daar". "Sê my, have they got the army itself there", he says: "Ja, en die camouflage and things like that? Nee, there is net die goete van hulle" - "die goete van hulle" I take it is their accoutrements? --- No, you see he was speaking there as if to give an impression that there was the army there, because he keeps on saying there is a police army there, so I asked him: are you saying the army is there, then he says: no, it is not the army actually it is just these ordinary police in their ordinary uniforms. But I think by army there he means a great number of police.

10

Yes, all right, and you say:

"About how many people do you actually"

his response: "I am sure man there are about 3 000.

3 000?

20

Ja.

Then sit on, boys, sit on, daar is nie ander ding" - that shows your determination to sit on as you say? --- Well, it is an attempt here to say to them you have no alternative you must go there. I suppose I must have been feeling that if - PAUSE -

"Sit on, boys, sit on"? --- That is right, you have got to see to it that you execute that plan, and especially in the light of there being so many people there, you just cannot shun your responsibilities. It is a

30

responsibility / ...

responsibility that cannot be shunned.

Yes, you didn't say that, Doctor, unfortunately, you said "sit on, sit on"? --- Well I mean this is a telephone conversation here, I am trying to indicate to you what the thinking behind this is.

Then if we look at 96, you say this is about 6 o'clock after Muntu had returned, your next conversation? --- Yes, I have it.

Now it seems that Muntu phoned you, did he? --- No, I phoned, because Muntu says "hello" at the beginning. 10

Are you now sure that you phoned, or is it possible that he phoned you? --- No, the first person who speaks there is Muntu so I think I phoned him.

Well? --- Or are you trying to get it from my memory?

No, I don't know, I am wanting you to try and think from your memory as to who phoned who? I wasn't there, you and Muntu were there? --- No, I phoned, I phoned.

All right, anyway Muntu says: "Hello" - why did you phone him that day? --- Well the point is I wasn't on the scene and I wanted to know if they were managing to - PAUSE - handle this matter properly. 20

Right, now let us see, you say:

"Hello, hello who is speaking? Aubrey here. Aubrey?"

and you make some explanation? --- Yes.

"Hê, Mokoape, ja. Ja, we are from there, man.

Hey, these police have cordoned off that place with a lot of people. They have cordoned off the place?

Ja. Waar is die mense? Uh? Waar is die mense?" 30

That / ...

--- That there I think is an indication of my consternation about the people there, because it was really my primary worry.

No, but you did not know yet what had happened, did you, when you phoned Muntu you did not know what had happened? --- No, I did not know, but the first question I ask is: waar is die mense.

Which mense are you talking about? --- I am talking about the people at Curries Fountain.

You mean the crowd? --- The people congregated there. 10

All right, you say:

"Die mense, they are scattered there, man.

They are still there you know. The people want to go there, they are worked up emotionally, but you know we always have the curious onlookers, you see. Were you able at least om iets te sê vir die mense?"

That was your concern? --- My concern was that we should have taken charge of that situation there.

"You couldn't say anything except shout "power", you know, it was just like that. 20

But julle het die megaphone gehet.

Hy was nie hoog genoeg. It was not possible the people were singing and hurling insults to these pigs and so on.

Why didn't you start songs then at least?

We started songs we were singing. . huh.. we were singing, moenie sê nie. The people are still there and we had something close to 2 000 people there.

Hulle sing maar net, hulle is te doene met hulle 30

slogans / ...

slogans en goeters. Just like that"

Now, why did you suggest that he should start songs? --- Well. I was asking him. You see the impression he was giving me here was that the crowd was there in a sort of a loose form and there was no cogency to it. So I am asking him: if you say you couldn't speak, people were shouting, why couldn't you start songs to create - PAUSE -

A cohesion? --- A cohesion.

Right, anyway we carry on at page 97:

"Just like that. Moenie sê, Jack. Ek sê jou, man. Nou sê ek gaan weer daar terug, man"

10

--- Yes, they can't leave the people there, that is my primary concern. I say as long as the people are there you can't leave them there.

Why not? --- Because you have called this rally, you can't leave those people there all by themselves.

Why didn't you say send one of these BAWU blokes to go and sort it out now? --- Well BAWU was not in the picture there, BAWU had been jettisoned quite early in the afternoon.

20

But you see there they could have saved the situation? --- No, no, no, BAWU would only have been significant if and when the rally was going to go on, but here Muntu was there and he seemed to tell me he had come back to the office and he has left the people there, and I say: look, you can't leave the people there all by themselves, you have got to go back right there if the people are still there. In a way I am trying to say you are the captain of the ship and you must be the last man to leave that place.

30

Exactly / ...

Exactly, again you are advising him on what to do?
--- Well, I am putting an opinion as a result of my consternation over the people.

Right, well he says to you, he gives you a good explanation, he says: we can't go there because there are Alsatians there? --- Well, yes, that is what he says.

So you say: "Nee, nee, nie om in te gaan nie, maar at least daar moet een van - een ou van ons of twee ouens van ons is daar, because you sien die reflection moenie wees dat ons" well that is what you explained a moment ago. --- Mmmm

He says: "Ek het die hele ding ge-lead om te sê jy weet" . . (Court intervenes)

HOF: Ek dink daar kom 'n ander woord daar ... indistinct.

--- Yes, we couldn't get the words there, mine has indistinct here too.

MR. REES: But we still submit that it is very clear that you said..(witness intervenes) --- No, no, no, this is your copy, Mr. Rees, it has got "indistinct".

I still say it is very clear that it is "lead", anyway the point is he appeared to be most reluctant to go back, and you appeared to be most anxious to persuade him that it is his duty and function to go back, that is the crux of what you are saying to him? --- Well, that is how I saw it, because as I say in the initial page of this discussion he seems to give me the impression that the crowd was there in a loose form, and that he had not taken charge of it, and I say: you can't do that, you have come back to the office now, and you have left the people there, that is something you cannot do.

All right, we want to just find out what the rest means. Then you are concerned with this Press conference: "Julle gaan aan met daardie ding, die Press conference. Ons het hom jy sien hoe werk daardie ding wat ek gesê het, gaat hulle sê ons het die mense probeer persuade om nie daar te gaan nie, verstaan. Ja, but nou kan ons nie sê nou because die ding het gebeur, you see, (..witness intervenes) --- That is right.

You wanted to here again, you wanted to here again give a false impression to the Press which is you had tried to persuade people not to go there? --- No, he was saying that we should say that we wanted to persuade people to come there, so I say no, just report the thing as it was. 10

Yes. --- "Sê die mense was daar, die mense het hulle ding gedoen".

Sorry, I just misread who said what. Then you say:

"Ja, ons het gesê moenie daar gaan nie, maar jy weet hulle het gesê nee, ons ..

You say: Nee, nee, nee, jy moenie wees daar ene mention ook nie, jy moet net worry om te sê mention om te sê uh.. Ja ons kan daardie hele dag uit-cut" 20

What was this you are trying to say here or can't you remember? --- Well really what I was saying was that just represent the picture as it was, cut out the nonsense about trying to persuade people from coming to the stadium.

Then you continue:

"Hou, net om te sê die mense se will, wat om te sê die ding moet aangaan, en hulle was daar en soos hulle gesien het ook die mense het hulle ding gedoen" 30

Yes / ...

--- Yes, I am saying representative it was, there were the people and the people were there, and don't try and say we persuaded them not to come.

Yes, well what you are impressing on him here is that he must say this was the will of the people to be there? --- Well the people had gone there.

"Ja, ja.. and then you continue... and then julle moet hulle condemn so hard soos julle kan"

--- Yes, you must condemn the system for the action that they took.

"Ja, and then julle moet hulle condemn so hard soos julle kan en dan ons sal net daardie ding maak. Ja"

Then he tells you:

"Ou Castro is hier, ons probeer hom update"

"Ou Castro" is Mayathula? --- Castro is a nickname for the Reverend Mayathula.

How what did you understand him there when he said they are trying to update old Castro? --- Well, I understood him to mean that Castro was at the office and they were trying to inform him as to what is happening.

And then you say they must send Boyce to come and collect you? --- That is correct.

And Boyce, is there such a man who is a driver who sometimes drives the vehicle of SASO or BPC there? --- No, that is a different man altogether.

Is there such a man? --- No, there isn't, there is another man at the SASO office whom I have heard of and I think he has only been in the employ of SASO since our arrest, and I think ..(Mr. Rees intervenes)

Is / ...

Is he Boyce? --- No, no, he is not Boyce.

All I am interested in is was there a man named Boyce? --- No, there was not.

No such a person? --- No such a person.

Never ever? --- No, but there could be a mistake in that after our arrest I think there was a man who worked at the SASO office, whose name was Boysie.

Now you see the point that you people end up on here is:

"Kyk hierso julle gaan nie die conference daar.. 10
daar by die kantoor hou because why these spies
hulle kan maklik, jy weet, 'n one-two maak op ons" -
so you are suggesting they should be cautious and not let
the police catch them there? --- Yes, well it was again in
the same vein that they should not let themselves get
arrested.

Then you also advise them:

"Ja, ons, so julle kan dan adjourn en die conference
somewhere gaan hou.

He says: Hee, dit is all right, ja ek dink ons moet die 20
conference hier hou om te wys ons is nie bang vir
hulle nie, want hulle gaan sê we had to adjourn,
jy weet, of sulke goete"

Muntu Nyeza quite clearly was going to defy them and hold
his conference there whether they catch him or not, isn't
that so? --- Well it wasn't actually an act of defiance,
because there was no breaking of the law by holding the
conference there, it is just that he thought I was being
over-cautious.

Yes. But you see that shows that Muntu Nyeza is 30

a / ...

a person who is prepared to outface the police, he would have spoken there to the crowd, it wasn't a matter of him being fainthearted when he saw the crowd and the police?

--- No, I think it is a question here of him feeling that I am having phantoms here, I am being too cautious why should we leave our office and go and hold a conference at some other place.

No, I am merely using that to show that when Muntu Myeza - he is not even prepared to leave the office, he wouldn't have been fainthearted there in front of the crowd? 10

--- The circumstances are different.

COURT: What is a "one-two"? ---Hulle sal 'n one-two maak op ons" - what it actually means, M'lord, is that these people can easily do us down, I think maybe that - PAUSE

Yes, but where does the expression come from?

--- No, I think it has to do with boxing, M'lord, when a person jabs you two punches quickly before you know what has happened. (LAUGHTER)

COURT ADJOURNS

/VID.

Collection Number: AD1719

State v S Cooper and 8 others.

PUBLISHER:

Publisher:- Historical Papers, University of the Witwatersrand

Location:- Johannesburg

©2012

LEGAL NOTICES:

Copyright Notice: All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

Disclaimer and Terms of Use: Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of paper documents and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

DOCUMENT DETAILS:

Document ID:- AD1719-Vol90

Document Title:- Volume 90, Pages 5130 - 5211.