

IN THE SUPREME COURT OF SOUTH AFRICA

(TRANSVAAL PROVINCIAL DIVISION)

CASE NO. 18/75/254

DATE: 18th AUGUST 1976

In the matter of:

THE STATE

vs

S. COOPER AND EIGHT OTHERS

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LUBBE RECORDINGS (PRETORIA)

COURT RESUMES ON 18th AUGUST 1976

MR. PITMAN ADDRESSES COURT: M'lord, I ask leave to interpose a witness at this stage, but before I do so I would inform Your Lordship that Accused No.1 is present here, apparently against medical advice, but he apparently has had his bed taken away from him in prison and is locked in a cell all day, and in the circumstances he has come to be present. I ask, M'lord, that he be allowed to sit in a seat behind me.

MR. PITMAN CALLS:

MDUDUZI GUMA, declares under oath;

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EXAMINATION BY MR. PITMAN: Mr. Guma, what is your age?

--- 26.

What is your present occupation? --- I am an articled clerk.

Is that in a legal firm? --- That is correct.

What is the name of the legal firm? --- The name of the legal firm is A.J. Gumede & Phyllis Naidoo.

Is that in Durban? --- That is in Durban.

When do you complete your articles? --- End of this year.

Now, did you attend the university? --- Yes I did.

Where was that? --- University of Zululand.

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What years did you attend that university? --- From 1970 to 1972, end of 1972.

What course were you pursuing at that university?

--- B.Juris.

Did you complete it? --- No.

What caused you to leave the university? --- Well family problems, I had no sponsorship so I had to go and seek employment.

Where did you find employment? --- In a firm of attorneys called Justice, Poswa and Company.

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Justice, Poswa? --- That is correct.

How / ...

How long were you there, from when to when? --- From 1973 to this year, end of May.

Were you articted there? --- That is correct, I was.

Now, while you were at the University of Zululand, did you know any of the accused people in the dock at present?

--- Yes.

Who did you know there? --- Muntu Myeza.

Where is he? --- Right at the corner there.

The man on the left, Accused No.2? --- And Strini Moodley.

Which is he? --- The man right at the corner there. 10

At the other end, that is Accused No.9? --- That is right.

At that time did you know any of the other accused, don't only look at the dock, look around the Court, in this well of the Court for example? --- Oh I see, yes.

Who else? --- Aubrey.

Which is he? --- The third from my left.

Accused No.4.

MR. REES: If there are any problems my learned friend can cut it short and ask him if he knows this one, that one or the other one. 20

MR. PITMAN: May it please the Court. Do you know this gentleman here? --- Yes I do.

Who is that? --- Saths Cooper.

Did you know him at that time when you were at the University of Zululand? --- Yes.

Now when you were at the University of Zululand, were you a member of SASO? --- Yes, in the sense that the whole student body was affiliated to SASO.

Will you please speak up a bit, Mr. Guma. Were you an active member of SASO? --- Well not an active member, just a member as a student. 30

Did / ...

Did you belong to any committees? --- No.

Now, during 1974 in September, do you recall the incident of the so-called pro-Frelimo rally? --- Yes I do.

Where were you at that time? --- You mean in terms of -
PAUSE - ?

Where were you working? --- With Justice, Poswa and Company.

Now do you recall the day of the proposed rally? --- Yes I do.

What day of the week, can you remember? --- I can't be so sure but I am tempted to say it was a Wednesday. 10

Now, will you tell His Lordship what happened on that day in so far as you are concerned, starting from the beginning? --- After work, this was now after half past four, it could have been somewhere near quarter to five a friend of mine came and we proceeded together in the direction of Curries Fountain.

Who was that friend of yours? --- His name is Mandla Tshabalala.

Yes, how did you proceed, on foot, in a motor car, on bicycles or how? --- We went there on foot. 20

Yes? --- We got outside Curries Fountain and there we found a crowd of people.

Do you know what the name of that street is? --- No, I don't know.

Yes, where was the crowd of people? --- The crowd was just outside the stadium which is Curries Fountain, there is a street, some of them were on the street and there is a sloping place there, with green grass and some were standing there on the bank.

Of the slope? --- Yes. 31

Now just for clarity let us call the Curries Fountain entrance / ...

entrance the north side, let us call the slope the south side, and the street goes east-west, east towards the city and west away from the city. Do you understand that?

--- Yes.

Now when you arrived there what did you and Mandla Tshabalala do, where did you go? --- When we arrived there we went behind the crowd, actually joining the people from behind.

Whereabouts was that? --- This was now on the slope.

Does that slope go up to some sportsfield? --- That is right. 10

Now you say you went to the slope there? --- Yes.

Behind the crowd? --- Behind the crowd, in fact we wanted to assume a position where we would actually face the gate.

Can you say what the crowd was doing at that time?

--- Yes, they were singing, raising clenched fists.

Were they singing all the time or not? --- Well they would stop at some point and they would be chatting.

COURT: I missed what you said, singing and what else? --- They would stop and chat. 20

Oh, singing and chatting you say? --- That is right.

MR. PITMAN: Were any people in the crowd doing anything apart from singing? --- Well, except raising clenched fists, talking and singing, I can't remember anything else. I could be perhaps forgetting.

COURT: Why were they raising clenched fists? --- Well it was in accord with the mood of the singing, the Black Power salute, shouting "Power".

MR. PITMAN: Were there any police there? --- Yes, police were there.

Now where were they, if you can say? --- The police were immediately / ...

immediately in front of the gates, Curries Fountain gates, actually barricading the entrance into the sportsfield, that is the stadium.

Now, did any policeman or any person make any sort of announcement there while you were there? --- Yes, yes.

What happened? --- First I think there was a White policeman who spoke into a loudspeaker using a microphone.

Using a microphone? --- That is right. At the time there was a lot of noise, people were singing, but from the little that I caught, they were saying something like people should go, this rally is banned. And after him there was yet an African policeman, who spoke also in the loudspeaker, telling people in Zulu that they must go, this rally is banned. Then at that time there were people shouting: stop, let us hear this man..(Court intervenes)

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COURT: I missed that - people shouting what? --- Shouting that the crowd must stop singing.

Stop singing? --- That is right.

MR. PITMAN: Did the crowd do any physical action when they said that? --- Yes, there was raising of hands shouting at the people to please keep quiet, that type of thing.

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COURT: Who shouted that: please keep quiet? --- Some members of the crowd.

MR. PITMAN: Now can you remember where you were at that time when the Black and the White policemen made announcements? --- If I remember well I had sort of moved further down towards now the street, because there were people coming in, you know people would come and then they would go at the back of the crowd, thereby forcing the people that had originally been on the bank or the slope to move further down.

30

Now the crowd itself you say was partly on the bank and partly / ...

partly on the street? --- That is right.

Was there any movement of the crowd so far as you could see? --- Yes there were movements but not directed, you know as people would come from behind, they would sort of pressurise the crowd from behind, and this would have the effect of the crowd, say, moving towards the bus rank - I don't know where that is -

The bus rank towards the east? --- The east, and some in a way shifting towards the west, the opposite direction.

Now, did you see at that stage whether there were any police dogs around? --- The police dogs came out at a certain point.

10

Right, but now I want to know at this point, had the police dogs come out or not? --- That is before the announcement?

Yes? --- As far as I recall before the announcement there were no dogs.

Now, did you see No.2 Accused, Muntu Myeza, at any time? --- Yes I saw him.

Where did you first see him? --- He was on the street. As far as I remember he came at a late stage, I would even daresay it was after the announcement because I saw him for a short while.

20

Did you see him arrive or did you only see him when he was in the crowd? --- Well I saw him when he was joining the crowd.

From which direction was he joining the crowd? --- From the easterly direction.

And when he joined the crowd, what did he do? --- Well he came and joined the crowd there, some people recognising him there was the raising of fists, shouting, some hugged him.

30

Hugged him? --- Yes.

And / ...

And do you know at that stage where you were, when Muntu arrived? --- Yes, at this stage I was on the bank, could be almost on the street, on the easterly direction. At the time he came, it was after this announcement, and the general mood was that people should move towards the east, that is almost dispersing.

Did you ever eventually land up on the street? --- Yes.

Was that while Muntu was there or before he arrived?

--- Just after he arrived.

Were you still with Mandla Tshabalala or not? --- No, no, 10
no, I had lost Mandla at the time. In fact as it happened I was talking to some other people, singing, at one point, I actually didn't take care as to where he was.

Now you mentioned the crowd moving towards the east, will you tell His Lordship about that? --- It was after the announcement, and I want to believe it was fairly clear to everybody that people should disperse there was no question of a rally. So in that disorganised form, people were moving, personally I was, in the easterly direction, not fast though, there was just singing and - you know, as you would imagine 20
people dispersing from a sportsfield after watching a soccer match, something like that, some talking and standing, not that people were actually moving fast or anything like that.

What happened next? --- Then there were police coming out of the stadium, that is Curries Fountain ..(Mr. Pitman intervenes)

Where were they coming out, can you say? --- Curries Fountain there is a big gate that is used for the cars of the officials, as against the gates used by the people for entering the stadium.

Yes, so you say the police were coming out of there? 3

--- That is right.

Police / ...

Police alone? --- With dogs.

And where did these police with the dogs go? --- When they came out they formed a sort of a moon shape, they took position in a moon shape, that is covering the west part of the crowd, and then some actually came on the east part of the crowd.

Could you see this happening? --- Yes, I saw it.

What happened to the crowd when the dogs came on the east side? --- Well the dogs then stopped people from proceeding towards the east.

10

What did the crowd then do? --- Well the crowd was forced towards the slope with the police now blockading the way towards the east.

What did you personally do? --- I was also forced up the slope, shortly thereafter the dogs were released and they chased us towards the slope.

When you say released what do you mean by that? --- Well although I didn't see what actually happened, but to me it felt like somebody suddenly giving the word that the dogs must fall into the crowd and ..(Mr. Pitman intervenes)

20

The dogs must? --- Fall onto the crowd, that was the effect of it, suddenly there was confusion, people running and the only open direction was up towards the slope into the sportsfield.

Now what I want to ask you is this, when you say released, do you mean by that that the police let the dogs go or not? --- Go into the crowd.

Were there any leashes on the dogs? --- Yes, when they came out they were handling the dogs like this.

What did you do then? --- I ran.

30

In which direction did you run? --- In the west direction,

this / ...

this is up the slope into the - there is another sportsfield facing Curries Fountain.

Did you say a westerly direction? --- Yes.

You ran up the slope? --- Up the slope.

And then? --- Of course when I reached the slope I started running now in the easterly direction - perhaps it is not correct to say the west, you see where the street is, I ran west now towards my back where I was facing up the slope (sic)

Did you run on top of the slope? --- That is running towards the east now towards the bus stop.

10

Did you go to the bus stop? --- Yes.

Is that the bus rank? --- Bus rank.

Did you see Mandla again at any stage? --- Yes we met in the vicinity of the bus rank, this is after running.

Now when you went to the place called Curries Fountain, what did you understand, that the rally was going to take place or not? --- Well I went there, I was curious to see what would happen because there had been a report that the rally was banned, and I think a subsequent report that the rally would go on, although personally I did not think that this would be practicable, if indeed it was banned as I had read.

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What didn't you think would be practicable? --- I thought there would be police there automatically if the rally is banned and they would tell people to go because the rally is banned, and just to see out of curiosity how this would happen.

Were there any reports in the newspapers about who would speak at the rally? --- Yes there were and that was another source of curiosity.

Why was that, what did it say? --- Frelimo speakers would be available to address the public.

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Now, I would like you please to look at certain photographs,

I / ...

I refer first of all to RALLY A.10.1.B, after that A.10.13 and 14, and then A.10.24.E, A.10.37, 38 and 39 and 40 - 37 to 40 inclusive, and then the final three is RALLY D.4, 5 and 7. Do you have before you an exhibit RALLY A.10.1.B? --- That is right.

Now, on that photograph can you identify any people - Mr. Guma, may I just see that photograph, I have an idea that mine is not completely identical. I hand you an orange pen, can you identify any people on that photograph? --- Yes.

First of all do you appear on that photograph? --- Yes I do. 10

Would you mark a circle round yourself with that orange pen? --- It is already marked.

But some other colour isn't it? --- Yes.

Well mark it with your orange pen. Well just describe yourself in that photograph, what are you wearing, are you carrying anything?

MR. REES: M'lord, is that necessary, he has marked himself we can all see.

COURT: Yes - well, have you got a newspaper under your arm?

--- Yes, and then there is Mandla in front of me. 20

MR. PITMAN:

Will you mark him with your orange pen. Can you see anybody else in that photograph that you recognise? --- I see Muntu Myeza as well, Accused No.2.

Would you mark him please. Is there anybody else that you recognise there? --- There is also one gentleman although I don't know his name, this plump guy, the fat one on the street.

I see, but you don't know his name? --- No, I don't know his name.

Now, just tell His Lordship, at what stage would you say that photograph was taken, what was happening there? --- This

was / ... 30

was taken shortly after the two announcements I have mentioned, and this was at the stage when the police came out with the dogs, first the announcement and then the dogs, and then as you see we are moving towards the bus stop, the bus rank I mentioned.

Are there dogs visible in that photograph? --- Yes there are.

Right, thank you, now could you look at A.10.13, do you have that photograph in front of you now? --- Yes I have it.

What is that photograph of? --- It shows a policeman and what appears to me like reporters, the policeman was speaking into the microphone. 10

Can you recognise anything there, I mean is that the incident that afternoon or what? -- Yes it is as far as I could make out from this picture, I remember this car, the position in which he was standing when he made the announcement.

Would you look at RALLY A.10.14, what does that depict? --- It depicts the African constable.

Doing what? --- Also making an announcement.

Is that at the rally or not? --- I am convinced this is at the rally. 20

COURT: Well did you actually see these people make the announcements? --- Yes I saw them, M'lord.

MR. PITMAN: Would you look at A.10.24.E, do you recognise anybody on that photograph? --- Yes I do.

Who is that? --- Accused No.2.

Where is he, in the middle between two people? --- That is right.

Now, would you look at A.10.37, what does that photograph show? --- It shows the African constable making the announcement and the crowds raising their hands. 30

What are the crowds indicating there by raising their hands / ...

hands - from your recollection? -- This was now when people said: keep quiet, let us hear what he says.

Would you look at A.10.38. Now are you able to recognise anybody in this photograph? --- Yes.

Who is that? --- It is Accused No.2.

Just put a circle round him please. Is there anybody else you recognise? --- No.

By the way do you know Mrs. Cooper, Accused No.1's wife? --- Yes I do.

Did you see her at all there that day? --- Yes I saw her. 10

Where was she when you saw her? --- Where I saw her she was now the easterly direction, that is from the bus rank.

But where was she in relation to the crowd? --- She was also in the crowd.

Would you look at A.10.39, can you recognise anybody there? --- Yes, yes.

Who is that? --- Accused No.2.

Would you put a circle round him please? Would you look at A.10.40 please, is there anybody there that you recognise? --- Yes. 20

Who is that? --- Norman Dubazane.

Would you indicate which one he is please? Put a circle round him and then put an arrow leading off to the left and put N.D.on the side there, on the white paper so we know who you have indicated there. --- Then of course Accused No.2.

Where is he, Accused No.2? Put a circle round him? --- Near Norman Dubazane although there is a person dividing them.

COURT: Let me see where Norman Dubazane is according to your mark. 30

MR. PITMAN: Would you look at RALLY D.4, do you recognise anybody / ...

anybody there? --- Yes I do.

Who is that? --- Accused No.2.

Which is he? --- The guy in the middle, there are three of them hugging each other.

Please look at RALLY D.5, do you recognise anyone there?

--- Yes.

Who is that? --- Accused No.2.

And he is also again in the middle is he? --- That is right.

Look at RALLY D.7 please? -- Yes.

10

Who do you recognise there? --- Accused No.2 again.

Again is he the man in the middle with his arms around the person on his left? --- That is correct.

No further questions.

CROSS-EXAMINATION BY MR. REES: I notice that you have got a shirt without a tie on? --- I beg your pardon?

You haven't got a tie on, is that correct? --- Yes.

Do you normally come to Court without a tie on? --- You mean as a witness or what?

As anything, you are an articled clerk aren't you? --- Yes
when I am at work I go to Court with a tie on.

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Why didn't you wear a tie this morning? --- Well if I had it with me I would have put it on.

You knew you were coming to give evidence didn't you?
--- Yes.

How long have you been here? --- Since yesterday.

Since yesterday, you came up to give evidence? --- Yes.

How did you come to Pretoria? --- I flew to Johannesburg and then took a bus.

What time did you arrive in Pretoria? --- At about half
past eleven.

30

Last / ...

Last night? --- No, in the morning.

Where did you sleep last night? --- At Marabastad.

With who? --- Mrs. Cooper and Miss Rambally.

Is that Accused No.1's wife? --- Yes.

Has she got an establishment there? --- Well they are staying in a house there.

What is your address, your home address? --- D70 Gwamashu.

That is on the outskirts of Durban? --- That is right.

How long have you been living there? --- Since 1966.

You are an articulated clerk with Gumede and Phyllis Naidoo? 10

--- That is correct.

Since when? --- Beginning of June this year.

Was this firm involved in any way in this terrorism trial that is now proceeding in Pietermaritzburg? --- Yes.

In what way were they involved in that trial? --- All I know is that Mrs. Naidoo is one of the attorneys acting.

Instructing attorney? --- That is right.

This Poswa that you worked for at the time, is it Justice Poswa and Company? --- That is correct.

You worked for them at the time of the rally? --- Yes. 20

What was your function then? --- I was an articulated clerk - you mean at the firm?

Yes? --- Yes, I was an articulated clerk.

And were they the advisers to SASO? --- Yes.

Do you know whether they were consulted on that day at all about the rally? --- As far as I know, no.

You don't know - you say they were not consulted or you don't know? --- As far as I recall they were not consulted.

No, I want to know clearly, is your answer that you don't know whether they were consulted, or you say they were not consulted as far as you can recall? --- Yes, as far as I can

recall / ... 30

recall, they were not consulted.

Could they have been consulted during that period without you knowing about it? --- Yes, there might be something, if they phoned Mr. Poswa or one of them and spoke to him about it, I wouldn't have known about it.

That is what I am getting at. --- Yes.

Why did you say you went to this rally? --- Just to satisfy my curiosity about the - there was initially a report to the effect that there would be a rally, and then subsequently there was a report in the paper that a banning order - that the rally was banned, and I think there was also a report to the effect that the rally would go on in any case. 10

Yes, in what paper was that report that the rally would go on in any case? --- I wouldn't categorically say which paper, there were quite a few papers.

Did you also sing and give the Black Power salute? --- Yes.

What does this Black Power salute mean? What is it intended to convey? --- Black Power, unity of the Blacks.

Yes, what else does it mean? --- Well at this point this is about all I can recall. 20

You see, I am told that at these riots now people are being stopped by students and told to give a Black Power salute before they can proceed, and if they don't proceed their cars are broken up and they are assaulted? --- Yes, I have read that also.

How can one associate that with Black power? --- It is difficult to say. Like in soccer matches you also find people raising the Black Power salute.

What has that got to do with it? --- I don't know, it is difficult to say, but as I said the nearest interpretation would be unity of the Blacks, all Blacks around here. 30

How / ...

How did you get to know Accused No.1, that is this man sitting behind me here, Saths Cooper? --- If I remember well it was at the time when he came to the University of Zululand, there was a play they were staging.

What play was that? --- I can't remember well but I think it was TECON.

What was his function, what was he doing? --- He was one of the cast, I can't say what he was doing specifically.

What other dealings did you have with him? --- Dealings in the form of? 10

Any dealings, dealings with Saths Cooper, Accused No.1? --- No, I can't remember anything.

Didn't you have any dealings with him, did you only see him once? --- Not seen him once, I subsequently met him, say in Durban, he stays in Durban, this I know, although I don't know where his home is.

What do you understand by conscientisation? --- Well, my understanding of it is that it makes a group of people follow a certain ideology, that is make people believe, make them conscious of a certain state of affairs. 20

How does one do that? --- You mean in reference to what specifically?

How does one conscientise a person? --- Suppose I wanted to conscientise you to believe that soccer was good, I will come to you and talk about soccer, invite you to soccer matches, bring you soccer literature, something like that.

And if you want to teach a person that the Whites are the enemy, how do you set about that? --- I wouldn't know, nobody has taught me that Whites are enemies.

Where do you know Accused No.4 from, that is Aubrey Mokoape, Dr. Aubrey Mokoape? --- Aubrey Mokoape, I know him from / ... 30

from the time of the University of Natal medical section.

What were you doing there? --- I had friends.

I thought you were at Zululand University? --- That is right.

What dealings did you have with him? --- I had friends I was with at the high school, like they would visit me.

But there is a very great difference between the Zululand University and the Natal University? --- That is true.

So the fact that you had friends there doesn't answer my question? --- It does.

10

What dealings did you have with Dr. Aubrey Mokoape? --- No dealings specifically.

Did you just know him as an acquaintance, can you just point him out? --- Yes, that is true.

Is that all you know about him? --- That is right.

Nothing else? --- Nothing else.

Did you know any of the Executive Members of BPC - Black People's Convention at that time? --- Which time, at the time of the rally?

That time of the rally? --- Well I can't claim to have known all.

20

Who did you believe to be the Executive members of BPC at that time? --- It is difficult really because I wasn't close to BPC except that I know Saths until he was banned and thereafter - PAUSE -

Who else? --- No, I can't pin myself down.

I would like to know, it is clear from your attitude that you knew more than one - or you believed that there were certain people who were Executive members of BPC? --- Well if you are asking me about the Executive I think I wouldn't go out of my way to tell lies before this Court, but say you ask

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of / ...

of the people I knew belonged to BPC.

Well who did you know in Durban who belonged to BPC?

--- Not in Durban specifically, I knew that Nkwenkwe was in BPC.

Nkwenkwe Nkomo? --- That is right.

Accused No.5? --- That is right.

Yes? --- And Mayathula.

Yes? --- At the moment I can remember those.

What did you believe Nkwenkwe Nkomo's position was, that is Accused No.5? --- Well really I never actually sat down to think about it.

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What did you believe his position was? --- He was one of the members.

And Mayathula? --- One of the members, possibly on the committee because in the first - here and there there would be statements by them, not that I knew what part they were playing.

Mayathula, wasn't he also in Zululand at Mapumulo or something like that? --- Yes, perhaps that is correct.

Just tell the Court very briefly, did you have any particular reason to notice any particular persons there that day or were you just a general spectator? --- Yes, I was a general spectator, what could have happened is I could have caught sight of a person I knew.

21

Yes, but you are a Durbanite, there are lots of people you knew there? --- Yes, I would say a fair number of them I knew.

Tell me, who were the Executive members of SASO that you knew? --- I knew that Muntu was the secretary-general I think if not the president - let me think a bit - PAUSE - yes, I think he was the secretary-general, that is right.

Yes, any other officebearers? --- And Nefolovhodwe, one of the accused.

Do / ...

Do you know which one? --- Yes, I think so.

Which one? --- Well I am not so sure here.

COURT: How did you know that? --- I think I have seen him in the photos.

MR. REES: Yes, what else did you know about them? --- The guys in the SASO Executive?

Yes, why do you call them guys, are you an American?

--- No, I am a South African but I still call them guys.

Refer to them as people or persons, guys is an American term which in this country I believe is slang. Yes, carry on? 10

--- There was also Norman Dubazane I think.

What was he? --- PAUSE

Can't be sure, did you see when Norman Dubazane arrived there? --- No, no.

Did you see whether or not Accused No.5 was there, that is Nkwenkwe Nkomo? --- No, I didn't see him.

How is it then that you so specifically noticed Muntu Myeza, what was there about him, were you expecting him?

--- Well I can't say whether I was expecting him or not, but it happened that I saw him, perhaps by way of him being closer to where I was, you remember I said there was a crowd, I couldn't have determined who I saw and who I didn't. 20

Did he arrive after the police had made the announcement?

--- That is right, perhaps that could be another factor that made him, you know, conspicuous, because I was already there as against people who were there before I came.

And is it possible that there could have been dogs outside there before these announcements were made, or do you say there were no dogs at all? --- My evidence would be that there were no dogs. 30

When you say there were no dogs you dispute therefore that there / ...

there were dogs patrolling outside before the main body of dogs came out? --- I would dispute that there were dogs patrolling, what I wouldn't dispute in this Court is that perhaps there were dogs behind us, in the now westerly direction, you follow?

No, I don't, you must please explain, how could there have been dogs behind you? --- That is why I say I can't dispute that if there was somebody saying that in this Court.

And if there is evidence or if it should be shown that there were dogs at various places moving about there, what would you say to that? --- At what time, I would be interested in that? 10

Well, before you say the police came out with the dogs in a group? --- Yes I would dispute that in so far as it refers to now the gate and where the police were and the crowd, you know, the front part of the police facing the crowd.

Will you just have a look at the photograph Exhibit RALLY A.10.1.AA, have a look on the right hand side at that black creature there, tell the Court whether that appears to you to be a dog? --- Yes, that is right. I see a dog, yes. 20

At what stage would you say that photograph was taken? --- This is at the stage after the announcement was made and the police came out with the dogs.

Why do you say that? --- That is my recollection.

Why do you say that? --- This is as I recall it.

I want to know, what is the basis for your recollection? --- You will notice from the picture here that the majority of the crowd are facing in this direction I said they were after the announcement.

Have you looked at this photograph before now? --- Yes. 30

When? --- This morning.

Who / ...

Who showed them to you? --- Mr. Pitman.

Where did he show it to you? --- In Mr. Chetty's office.

Where is that? --- In Marabastad.

How many photographs did Mr. Pitman show you? --- I didn't count them.

Was it a lot? --- Yes.

What did he want of you? --- Well he said - he first told me that they were photographs taken at the rally, and he wanted to see if I could relate the events I was telling him to the photos.

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Yes? --- Yes.

Had you related these events to anybody else before? Had you gone through the photographs before? --- No, not before this, not before this morning.

When were you first asked to give evidence? --- You mean asked to give evidence?

Yes? --- If I could be willing to come and give evidence?

That is right, if you would be willing to give evidence?

--- That is right, this was now about, say, two weeks back.

Who asked you? --- It was first Mr. Chetty's professional assistant.

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Who is he? --- He is a Mr. Yunef Mohamed.

Mr. Yunef Mohamed? --- Yes.

Yes, and then, what did he want with you? --- At that stage there was also Mr. Pitman in Mr. Chetty's offices in Durban. I will tell you how it came about, Mandla was called, I don't know who by, but he came to me and wanted me to accompany him to Mr. Chetty's office. We went there, and then there was Mr. Pitman who wanted to see Mandla, so we sat with this Mr. Mohamed who happened to be an acquaintance of mine we were talking there, and then Mandla and Mr. Pitman were in

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the / ...

the other office, so he told me that they wanted Mandla for evidence about the rally. So in the talk I told him that I was also in that. So I believe this was also discussed between Mandla and Mr. Pitman, because when they came out, he said: this is Mduduzi I was talking about.

And what did Mandla tell you, what was he going to tell the Court? --- I beg your pardon?

What did Mandla tell you about why he was required? --- He never told me a thing.

What did you believe, why was he required? --- Well, 10
from the conversation I had with Mr. Mohamed it was common cause that it was relating the events of the 24th September.

What was important about that, what did you consider to be important about that? --- Knowledge of what happened, what transpired there.

About what, the Court already heard what transpired, what was to be your contribution? --- I don't know, the Defence Counsel felt that I could perhaps assist the Court, I don't know how.

In what way could you assist the Court? --- I have now 20
related ..(Mr. Rees intervenes)

In what way did he tell you, how could you assist the Court? --- No, he didn't tell me, just by relating what happened.

When this policeman said that the rally is now banned people must go, did you start going? --- Yes, in a sense, not almost immediately.

Why not? --- Well I will tell you, the crowd there was not organised like you would have schoolchildren..(Mr. Rees 30
intervenes)

I am not interested in the crowd, I am talking about you personally / ...

personally? --- Yes, I am trying to explain to the Court.

Well then why didn't you go, what has that got to do with the crowd being organised like schoolchildren? --- Yes, perhaps if you put the emphasis on the fact that I didn't go, I eventually walked.

You didn't go then and there? --- Yes, this is what I am trying ..(Mr. Rees intervenes)

Why not? --- That is what I am trying to explain to the Court, will you allow me to explain?

Why did you not go? --- I will explain, the crowd was a disorganised crowd, the fact that one man was shouting instructions, that wouldn't, you know, evoke a sort of planned and arranged type of marching away. The fact that we were singing at the time, or at the point I could have been talking to somebody, so that I heard the instruction, and of course the idea was to obey the instruction by dispersing, but I wouldn't almost immediately start moving.

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Why not? --- For the reason I have explained.

I don't understand you, you didn't want to go, you wanted to ..(witness intervenes) --- I wanted to go.

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Then why didn't you go? --- I went eventually, this is what I have explained about the crowd being disorganised and it being impracticable for the crowd to sort of immediately after the announcement then march as though they were waiting for that.

I am not asking you about the crowd marching, I am asking why didn't you start moving out and going away? --- Well I am trying to explain that ..(Mr. Rees intervenes)

You were reluctant to go? --- No, I wasn't reluctant.

COURT: Were you expecting the crowd to march off in military fashion or what? --- You mean me, M'lord?

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Yes / ...

Yes? --- No, in fact I was expecting the crowd to disperse in the form it eventually took before they were attacked.

Well that is why Counsel is asking you why didn't you walk away? --- I went eventually.

Pardon? --- I walked eventually.

Eventually? --- Yes.

Yes, well he wants to know why you didn't walk away immediately when the order was given, when it was given the first time? -- I could have been talking at the time or singing, I can't remember what exactly I was doing.

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Why, were you just ignoring the policeman's instructions? --- Not ignoring, it was a question of about a minute or two before I started moving.

MR. REES: How long after the order was given did the dogs come out and you people run? --- I would say fairly shortly thereafter.

Well how long is fairly shortly, one minute, two minutes, ten minutes, twenty minutes? --- It could be something like three minutes.

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COURT: Tshabalala, if I remember his evidence correctly, said they didn't disperse when the instruction was given? --- Meaning what by didn't disperse, I would be interested in that?

Well they made no attempt to move away? --- Well, I would differ with him in that respect, in the sense that there was - as I tried to point out in the photo - that the crowd actually faced towards the east as if moving away, although I wouldn't pin myself down to saying almost immediately, it was a question of about a minute or two.

MR. REES: What do you mean the crowd faced east as if moving, either a person moves or he doesn't move? --- No, well I am

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talking / ...

talking about the crowd.

Well how can a crowd be as if they are moving, either they are moving or they are standing still? --- Yes, if you understood me the way I tried to explain the crowd, you would have a picture of this, Mr. Rees.

No, I just don't understand what you mean about a crowd as if it was moving? --- You see in a crowd ..(Mr. Rees intervenes)

Were you moving, were your feet moving from one place to another, the left foot in front of the right foot? --- Yes. 10

Is that what you mean by as if moving? --- That is right.

Now when is he then not moving? --- When the crowd is quiet and almost stagnant like you have seen at a funeral or something like that.

Is that the position when they are as if they are moving? --- I beg your pardon?

Is that the position ..(witness intervenes) -- As if they are not moving in a funeral.

Were you going to obey this order once you heard it given, the order to disperse? --- Oh, in fact I would almost venture 20 to say almost everybody would obey the order.

I am interested in you personally. --- Yes.

Don't speak for other people? --- Yes, yes, I would.

Have you got a mandate from other people to speak on their behalf? --- No, it is my opinion, I don't have any mandate.

Now, I would like to know from you what made you, what induced you to obey that order? --- The police had spoken.

The police had spoken? --- Yes.

But before you went there you heard the rally had been banned, why did you go there to a banned rally? --- The police 30 spoke about people dispersing.

But / ...

But the notice in the newspapers said people who go there are liable to be prosecuted, what is the difference between the policemen saying disperse and you seeing the paper? --- People who go to the rally, I am sure will make a difference here as against people who are standing there, the crowd, now the police were giving an instruction for the crowd outside Curries Fountain, that is not now where the rally was supposed to be, to go.

You went to the rally, didn't you? --- The rally was supposed to be in Curries Fountain, I was never there.

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You went with the intention of going to attend the rally didn't you? --- No, who said that?

I am asking you? --- No, I did not.

What did you then go and do? --- To satisfy my curiosity.

I don't understand, satisfy your curiosity, where were you and how were you going to satisfy your curiosity? --- Like I explained that there was this report in the Press that the rally had been banned ..(Mr. Rees intervenes)

How were you going to satisfy the curiosity? --- That I am explaining.

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I don't want to know what the reasons were, how were you going to do it at Curries Fountain? --- Just as a spectator.

A spectator? --- Yes.

What does everybody else do at a rally, are they all spectators? --- Well I think in a rally they would have to listen to speeches.

Were you going to listen to the speeches? --- No.

What were you going to do, close your ears? --- Well, the opportunity didn't arise, but if you want me to give a surmise on this point, like if people went into the ..(Mr. Rees intervenes)

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Don't talk about people, talk about yourself? --- Yes, this

is / ...

is where I will come in, if people went inside the Curries Fountain stadium, and there were speeches going on and that would be now in my opinion a banned rally going on in defiance of the banning order.

Did you not intend to go in to Curries Fountain? --- No.

Where did you intend stopping? --- Just watching, I had a feeling the police would be there to stop the rally as in fact it turned out to be.

What gave you that feeling? --- Because there was a report that the rally had been banned. 10

Yes, so you thought the police would be there? --- Yes.

Did you think there was going to be some fun and games? --- Pardon?

Did you think there was going to be some fun for you to watch? --- Yes, well people meeting there and singing, you could safely say fun in that sense.

What did you think the police were going to do? --- Stop the people from going inside the gate.

Then what did you expect would happen? --- Well of course what I thought at the time was that the opportunity of people wanting to go into the stadium would never arise, like I expected to see one of the SASO members tell the people that: look, you have come this far, the rally has been banned and it is the law ..(Mr. Rees intervenes) 20

Why did you expect that, what were your grounds for that? --- Well my knowledge of SASO was that they would never go out of their way to contravene the law or ..(Mr. Rees intervenes)

Where did you get that idea from, what is your experience then that they would never go out of their way ..(witness intervenes) --- Like I said the office I worked in was the attorneys for SASO, and I would see them coming for opinion and .. 30

(Mr. / ...

(Mr. Rees intervenes)

Well what opinions, who came there for opinions and what opinions were they? --- Well, I can't recall any now, it wasn't a question of one incident.

Well give us the last opinion that they were given about avoiding violence? --- Mr. Rees, I would be unfair really, I can't recall.

Don't address me, address His Lordship? --- M'lord, I ..(Mr. Rees intervenes)

You can't recall any opinion? --- Specifically yes. 10

You can't even recall one generally or can you? --- I don't think - generally, how?

You can't recall any opinion, either generally or specifically? --- Okay, perhaps to be a bit general, like when there is a new guy coming in to office, they would come to seek advice on how to run their financial affairs, getting the signatures on their cheques, something like that.

Is that the type of thing you have in mind? --- Yes. And of course in instances where they would say that they have been harassed by police, and they come to find out whether that was lawful for the police to act in the manner they did. 20

Tell us that, give us an incident, who came and said he was harassed by the police? --- I recall now I think I was still new in the office, I think it was Barney.

Barney who? --- Pityane.

What was his complaint? --- I think on his way to the Transkei, he had been stopped by the police and questioned overnight.

About what? --- I don't know about what.

Did he want some legal advice? --- That is right. 3

Yes, what was the advice that he got? --- Well I was not / ...

not dealing with the matter.

That is about the only incident that you can think of?

--- PAUSE

COURT: Why did he come to you as an articled clerk? --- No, he didn't come to me M'lord, he came into the office.

Well why did he speak to you, the articled clerk? --- No, he didn't speak to me.

Oh, I thought he asked you for your advice? --- No, not my advice, he came into the office.

MR. REES: Now the Black Power salute, that is given, people shout "Power" as you said a little earlier on when they want to force their view down people's throats, is that correct? --- No.

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Was that never used in such circumstances? --- Not that I can recall.

Didn't you just now concede that you read in the paper that these people who make illegal road blocks and stop the people and break up their cars, and force people to give the Black Power salute? --- Well, I didn't relate it to forcing ideas down people's throats, like my reading of it in the paper was that it was used as a password. 20

As a password? --- Yes.

Does a person need a password in South Africa now before you can ..(witness intervenes) --- No, I am relating this to the reports I have read in the newspapers about the Soweto riots.

So you need a password, Black Power? --- No, no, no, understand me well, I am relating this to the Soweto riots.

Yes? --- The Press now, I was not there, but the Press would say the people would ask whoever came driving to show a Black Power salute, and then they would be allowed to pass. 30

And if he didn't? --- He would be stoned or something like that

Yes / ...

Yes, so the Black Power salute is associated with the illegal enforcement of violence, the illegal application of violence to the public? --- No, no, no, my understanding of it is as I have just said, they would use it as a password, I don't know why.

Just a password? --- Yes, that is in the circumstances of Soweto.

Could you just explain that, what do you mean a password in the circumstances of Soweto. In Soweto there were riots in which people were killed, isn't that so? --- This is true. 10

And in which these students played a leading part?
--- You mean the pupils there?

Yes? --- Yes.

And these pupils put up road blocks, and they stopped people from proceeding about their lawful business? --- Yes, that is true.

And these people forced persons to give a password, that is a Black Power salute, is that right? --- Yes.

Now how do you relate the two? --- I won't go very far from what you have been saying, because I think we both read the papers. 20

Don't mind whether I read the papers ..(witness intervenes)
--- Your guess is as good as mine, except that I used the word password meaning that if you show the Black Power salute they will let you pass, we both read that in the papers, nothing more to it.

And if you don't give it? --- They would stone you, according to the papers.

So what do you understand from it, how does this Black Power salute and the Black Power slogan relate to the violence? 30

--- I wouldn't seriously relate it to any violence except as I have / ...

have said to this Court that according to the papers, the Soweto kids would use that as a password, I don't know why, perhaps they could have used something else.

MR. PITMAN: M'lord, at this stage I want to object, I understand there has been a ruling already that the current riots are not relevant to this matter. The evidence for the State in this matter is that Chief Buthelezi uses the Black Power salute. Now is there any relevance then, is my learned friend suggesting that Chief Buthelezi using the Black Power salute is related to the forcing of the Blacks - it seems to be a totally irrelevant and unnecessary line of cross-examination. Really I think it is a nonsensical line. 10

COURT: I think it is a convenient stage to take the adjournment.

COURT ADJOURNS

COURT RESUMES:

MDUDUZI GUMA. STILL UNDER OATH:

COURT: Yes, Mr. Rees, what is your answer to Mr. Pitman's suggestion?

MR. REES: M'lord, as I was going on to another point in any case I don't think it is necessary to deal with that if Your Lordship will allow me. Have a look at RALLY D.4, who are the people there around Muntu Myeza, Accused No.2? --- I don't know their names. 20

Do you know what they are? --- No, I don't know.

Look at RALLY D.5, do you know any of those persons, except of course Accused No.2? --- No, I don't, M'lord.

Now what newspapers did you see on that day, I am talking about the 25th, did you see the Daily News? --- I think I did.

You see we have here an exhibit, EXHIBIT 31, the heading is: "Banned rally to go ahead - students defiant", that is a banner / ... 3

banner headline on the front - did you read this? --- Yes I did.

Now that article in EXHIBIT 31, the stop press of the Rand Daily Mail of the 25th - sorry, I will read again, the Daily News stop press, Durban, Tuesday September 24th 1974, that shows quite clearly that SASO was in a defiant mood, isn't that so? --- Yes, according to the paper.

And have you any reason to disagree with the paper, do you say the students were not in a defiant mood or do you agree with the paper that the students were - not the students, SASO was in a defiant mood that day? --- Well the impression it made on me was that perhaps it was for the Press to dramatise the whole thing, possibly they were told by one of the SASO members - what I actually believed when I went to the rally was that there was no question of defying the law with SASO. 10

But you only believed that, you had no grounds for your belief? --- Well, I previously told this Court that as far as I could make out SASO were very cautious about how they deal with the law.

Yes, but you only gave us two examples? --- That is right. 20

The one was how they signed documents and another man who wanted to complain because the police had questioned him?

--- Well, the legal advice one?

Yes? --- Yes.

But you didn't speak to the SASO leaders on that day?

--- No, I didn't.

So you didn't know what their attitude was there? --- I beg your pardon?

You didn't know what their attitude was? --- Yes, I could only form an impression really, like I asked myself if really if they would ..(Mr. Rees intervenes) 30

Well / ...

Well I don't want to know what you asked yourself? --- I was trying to explain myself to the Court.

Now, did you also read this one in the Daily News, Wednesday the 25th, the City Late edition where it says: "Frelimo secrecy, meeting in secret today despite the month long Government blanket ban, South African Students' Organisation and Black People's Convention decided to press ahead with the banned pro-Frelimo rally"? --- Yes, I think I read that.

You think you read that as well? --- Yes.

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Well, I will read it aloud and then we can discuss it with you. I am referring, M'lord, to EXHIBIT 34:

"Meeting in secret today despite the month long Government blanket ban, the leaders of South African Students' Organisation (SASO) and Black People's Convention, decided to press ahead with banned pro-Frelimo rally. Following this banning of the Frelimo solidarity rally on Monday night, the Minister of Justice, Mr. Jimmy Kruger, said last night that the ban on all SASO and BPC meetings would be gazetted today. After the clandestine meeting somewhere in Durban today, SASO's secretary-general and joint SASO/BPC press officer, Mr. Muntu Myeza, that rallies planned for all national centres would go ahead" -

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that shows an intention to defy the State doesn't it? --- Well to me it didn't appear like that.

It didn't appear like that? -- It was more a joke to me than a serious thing.

This was a joke? --- Yes, or that somebody is pulling a fast one.

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Mr. Rees continues reading:

"Meetings / ...

"Meetings under a pro-Frelimo banner are planned for Durban, Johannesburg, Cape Town and Port Elizabeth" - Did you know that at the time? --- This is from the Press, I read it.

"In a brief announcement to Daily News reporters after the meeting, Mr. Myeza said: "This afternoon's rally will go ahead as scheduled, and the Frelimo leaders will be there" -

you also believed the Frelimo leaders would be there didn't you? --- I did/^{not}believe it, that was one of the reasons I went there, I would have been shocked seeing them. 10

You would have been shocked seeing them? --- Yes.

But didn't you go there because you thought they would be there? --- In fact I wanted to see if they were there, I would have been shocked as I say, I didn't believe they would be there.

You didn't believe they would be there? --- Yes.

But you went there to be shocked? --- Yes, possibly.

I follow. Mr. Rees continues reading:

"Mr. Myeza also promised that the mystery Frelimo leaders would appear at a Durban Press conference tomorrow morning" 20

--- Read that again please?

MR. REES REPEATS, and CONTINUES:

"He still refused to reveal who the Frelimo men were, how they had entered the country, or give details of many other questions left"

--- This confirms my incredulity to the whole thing, it was just a joke. I couldn't imagine after this banning order we would still have the Frelimo people, if they would be there according to the Press, because I knew they would get arrested with / ... 30

with Muntu as well, I couldn't believe that.

Who was then making the joke, Muntu Myeza? --- If that is him addressing himself to the paper.

Now is this the type of joke which you believed SASO and BPC made? --- By meaning this is the type of joke do you mean this is how they usually make jokes?

Yes? --- No, I think that was the first of its kind.

The first of its kind? --- It did sound like a joke really.

Why did it sound like a joke to you? --- It was imaginable that with the ban and as you have just read for me there would be the Frelimo people coming to address, and then meeting secretly, and then still going to the Press and make a statement.

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Is that why you thought it was a joke? --- Yes, in my mind.

When did you start thinking that? --- After reading the report.

And still after reading the report you went to the place, you went there to go and see what was happening? --- Yes.

So you couldn't have thought it was such a big joke? --- What do you mean?

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You couldn't have thought it was such a big joke, you thought they intended to carry on? --- No, I told the Court I went there to satisfy my curiosity on what is happening.

No further questions.

RE-EXAMINATION BY MR. PITMAN: Would you look at EXHIBIT 31 on the front page please, do you see that article on the front page in regard to the banning, the lead article on the front page? --- The one reading: "Banned rally to go ahead"?

Yes, will you just read the first sentence of the third paragraph? --- The sentence starting with "mystery"?

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Just / ...

Just hold it up, let me see if that is the third paragraph - no, that is the fourth paragraph, the paragraph before that one? --- WITNESS READS:

"We are not aware of any banning, we are going ahead at all costs with all the rallies nationally planned too"

Now that EXHIBIT 31 relates to the 24th, now can you tell His Lordship whether by the time you went on the 25th, which was the day of the rally, whether you went there to the rally having seen the Daily News of the 25th, that same day, or not? I see you had a newspaper under your arm, what newspaper was that? --- I would say it was the Daily News of that day. 10

Do you know when the Gazette banning the rally arrived in Durban, or don't you know? --- No, I don't know.

In regard to the rally itself, my learned friend asked you questions about whether you left the meeting after the announcement to disperse had been given. Where were you in relation to the crowd at the time that that announcement was given or made? --- In relation to the crowd I would say I was almost in the centre, on the bank of the road, almost facing the police. 20

That gate which the dogs came out of, when you arrived at the rally - at the meeting, was that gate open or closed?

MR. REES: I didn't ask him anything about the gates, M'lord, and I object to this question. It does not arise out of my cross-examination.

MR. PITMAN: M'lord, my learned friend asked him questions about whether the dogs were there, whether there were dogs all over the place before they came out and dispersed the crowd. This witness has said the dogs came out of the gate, and this question relates to that. Let me just put it this way, the gate that the dogs came out of that you said was open when the

dogs / ...

dogs came out, obviously? --- Yes it was, when we came it was closed, I can't say to this Court when it was opened, but when we came I recall well it was closed, it was opened at some stage, I can't remember that in relation to time.

But when you arrived there? --- It was closed.

My learned friend asked you about crowd movement, was there ever any movement towards the gate by the crowd?

--- No, there was none at any stage.

No further questions.

BY THE COURT: Now if I understood your evidence correctly, you were on the embankment, when you arrived there? --- M'lord, starting from the slope until the bank, yes. 10

But now what happened to you then? --- You mean at what stage?

Well after you arrived there and you were on the embankment, did you remain on the embankment, or what happened to you? --- I was moving, I could even say endlessly, meeting guys and speaking, talking, singing sometimes, nothing specifically, with no direction I would put it.

Now would that take you off the embankment? --- Of to? 20

Would you be still on the embankment talking to these people? --- Yes, at times moving backwards, but mainly towards the street as the people were thronging behind, forcing the crowd that was already there to move sort of towards the road, and then in a westerly and easterly direction.

Now where were you when No.2 Accused arrived? --- At that stage I was on the bank.

On the bank? --- Yes.

Are you sure? --- Yes I would say I am sure.

And what happened to the accused, No.2 Accused? --- What happened? 3'

Yes / ...

Yes, you said he arrived? --- Yes.

And he came from the east? --- That is correct.

Now tell us what happened? --- As he came he approached the crowd.

Yes? --- Not like other people, he came now on the street not going on the slope, so he was met there by people and he went into the crowd and he continued singing, raising of the fist, he just I would say joined the crowd.

But you said the people were shouting when he came? --- Yes.

What did they shout? --- Well, I would say undefined, like 10 I would say: Ooh, Ooh, Ooh! - that type of noise.

And then did you watch him all the time? --- No.

But you say you were on the embankment then? --- That is right.

And then did he remain there some time? --- No, I would say he didn't stay for long there, because as I said he came at the stage when the announcement had been made, perhaps another thing that made me see him was that at the time of facing the direction from which he came, that is going towards the easterly direction, so he didn't stay for long there, it was after the 20 announcement and then suddenly or shortly thereafter dogs.

But I thought he came there after the announcement had been made to disperse? --- That is right.

Now, you say you were on the embankment, on the slope, when he came? --- That is correct.

So despite the announcement you still moved onto the street? --- The street, Your Lordship, would be the normal way for everybody to leave that area. You will remember that we had to go over the slope because there was a crowd of people, now when everybody was leaving the street would be the normal path 30 to be used.

But / ...

But if I understood you correctly you were on the eastern side of the slope? --- Yes, that is correct.

Now you wanted to walk east, you don't have to walk towards Curries Fountain to go east again? --- Towards Curries Fountain stadium, Your Lordship?

Yes, you would have to walk north to go to Curries Fountain? --- Yes, that is correct.

Now if you want to walk east you don't walk north? --- That is true.

Now, how did you get onto the street? --- I think the people would come and join the crowd from behind, and the effect of that would be forcing the people that were already there to come down the street, and at some later point move now towards a westerly direction, and some in an easterly direction, avoiding coming close to the policemen.

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So you got onto the street because you were in the act of moving off, moving away? --- Because there were people coming from behind, and then on the street now facing the east, that is when we were moving away.

Now, how do you explain that photograph, if those were the actions, RALLY A.10.1.B I think, there you were standing with nobody pressing you, and you were looking towards the embankment, there you are on the street looking towards the embankment, not moving away, and with nobody pushing you? --- Yes, this would suggest moving away towards the east, as I am facing the east, and if you look at this photo, Curries Fountain is actually behind me now, the main gate.

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But if you move away you don't move if you just face east, are you moving away when that photograph was taken? --- Yes, although it is not visible that I was moving, you would make out from this there would be no reason causing me to face - my

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back / ...

back facing the police when the whole thing had been facing the police where they were barricading the entrance into Curries Fountain - PAUSE - Your Lordship, now before the dogs change whole direction.

Before the dogs? --- Before the dogs came and changed the whole direction, because they came now in the front as we are facing, east, and eventually I ended up going up the slope.

You were not worried about dogs you were laughing there, standing smiling with your hands in front of you? --- Yes, this is true ..(Court intervenes)

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The dogs are there? --- Yes, as I was going, I mean I had no reason to worry about dogs, there was the crowd respecting the instruction, and I was going.

But there is nothing to suggest there that the crowd is moving east? --- I would say there is.

Well even the fat man wasn't moving east and he is the only person who really indicates movement? --- I would say he is not the only person, I could point to quite a few including myself.

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Can you point to people facing west in that photograph? --- Facing west? Yes.

Quite a few or only one excepting you? --- Yes I would point out quite a few.

Well if you had to look at the direction they are looking in, can you infer from that in what direction they are moving, because then those people must be moving west if that is correct? --- Well they are facing west, but as I say, in support of my averment that the movement was towards the east, I could point out quite a few to the Court.

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You see the crowd pushed you onto the street, well I cannot

see / ...

see any crowd pushing you or anything? --- This is later on, M'lord, this is later on because as I say we are now on the street and the bank, the crowd would have been coming from this direction, this is when we were moving away.

Is that dog moving that you see there on the photograph? --- No, the dog is quite stationary. Perhaps, Your Lordship, people like this man, this one, this one too, and others behind, they suggest to the Court that the movement was now to the east.

Well it is amazing that the movement is behind where you don't see the people and not in front where you see the people? --- I don't follow, Your Lordship. 10

From the photograph the people in front are not moving, now why must I infer that the people behind are moving? --- You will see that from starting immediately in front of me there are people facing this direction, though I can't categorically say why they were facing, I would be tempted to infer that these didn't quite hear the announcement, because if you look at the throng here everybody is facing in this direction, but these are actually stationary here and facing that direction. 20

Well what I can't understand is that you were on the slope when the order was given to disperse, you are trying to tell me that you started walking away, and you first had to walk onto the street in order to walk away to the east? --- Yes.

Is that correct? --- That is correct.

I can't understand how you find yourself in that position? --- This position?

Yes, on the photograph? --- Walking towards the east.

But Curries Fountain is immediately behind you, you are standing with your back to Curries Fountain? --- That is right. 30

Is / ...

Is Curries Fountain west? --- PAUSE

Do you walk sideways or what? --- No, I walk straight forward.

Now if you walk in the direction the front of your body is facing is that walking east or is that walking south?

--- My body was facing a south-easterly direction.

Now if No.2 Accused arrived there after the instruction was given to disperse, is it true that the crowd only remained there a few minutes after the instruction? --- There is a word I missed, is it true that the crowd?

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Remained a few minutes before they started moving?

--- That is true.

Now if you look at these photographs showing the Accused, does that crowd suggest moving to you?

MR. PITMAN: M'lord, which photographs are those?

COURT: Just read the numbers at the back of the exhibits?

--- A.10.40, A.10.39, A.10.38. Your Lordship, I have here photo A.10.40, I would say in this one the crowd doesn't suggest any movement.

Yes, but No.2 arrived after the instruction was given and that shows No.2 on the photograph? --- This is true.

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Now if you look at another photograph you will see that the accused is still there with his friends who hugged him?

--- This is A.10.38.

You will find that there has been some motion in the crowd because the fat man has disappeared? --- That is correct, M'lord, if I could point out something perhaps it will also clear this question you want to know why I had to come in the road. If you look at the back of this picture you will see people coming down the slope into the road, which shows that the normal way of leaving the stadium would be going into the

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road / ...

road and away to the bus rank.

Yes, well you see there is other evidence that they moved towards Curries Fountain, and doesn't that suggest that it is a movement towards Curries Fountain? --- No, that is out, I would deny that.

But now you say that that photograph shows that they are coming down the slope? --- Yes onto the street and away.

Well how do you know that the person coming down that slope is going to walk east? --- Well I explained this in relation to what I pointed out about where I feature, that is now the general movement of the crowd. 10

Now if the accused was standing in the crowd as indicated there, how was it possible to take these three photographs, RALLY D.5, D.7 and D.4, are they moving there? --- To me they look like they are standing.

They are moving? --- They are standing.

Standing? --- That is right.

Now how is it you find him in that position with nobody in front of them so that the photograph could be taken of them, if they were initially in that crowd shown on the other photograph? --- I would explain this in this way, it would first depend on who took the photo, like if it was somebody taking it from close quarters, it would come up in this fashion, and secondly ..(Court intervenes) 20

Well what will happen to the people standing immediately in front of the accused as the other photographs show? --- Your Lordship will realise that on this D.5 there is also the back of a human being.

The back of? --- The back of a man standing with a clenched fist, that is here. That explains ..(Court intervenes) 30

That means that people were now on the side, I am talking about / ...

about the people who would be in front of the accused?

--- Well as I said it depends from which side the man who was having the camera came from.

Doesn't it depend on what happened to the people standing in front of the accused? --- I beg your pardon?

Doesn't it depend upon the people who initially stood in front of the accused, because they don't become transparent if a man with a camera comes there? --- No, they don't, but with a camera you could, say, standing here wanting to have Your Lordship alone, with this lady - it depends on the position 10 how you ..(Court intervenes)

You would get the lower part of his body as on that particular photograph? --- I beg your pardon?

If you raise the camera in order to take a photograph and avoid people standing between you and the subject that you want to photograph, will you get his legs in as in that particular photograph? --- Well I wouldn't know, perhaps - let me also cover the second part, again I would say that I was not watching, you know, put it this way, Accused No.2 I believe like everybody was, wasn't stationary at one point, it is possible 20 that at one point he was in that direction where he could have been caught by the photographer.

But you say the crowd was moving away? --- That is right.

But does that suggest that he was standing still? --- Yes but this was after Accused No.2 came.

Yes, well it was after he had been in that crowd? --- That is right, possibly they were taking these photographs before the crowd moved away.

And what happened to the dogs when the crowd was moving and the man was taking photographs? --- What happened to the dogs when the crowd was moving and the man? 30

Yes / ...

Yes, had time to take photographs of people standing?

--- As I just said possibly these photos were taken before the crowd started moving, now this would exclude the question of the dog coming in because the dog came after the crowd had started moving in an easterly direction.

Do you still disagree with Tshabalala that the crowd didn't disperse after the instruction was given to disperse?

--- With respect, Your Lordship, I would differ with him.

And despite those photographs? --- I just wanted to add something to qualify immediately, that they didn't move immediately, Tshabalala I am told said they didn't move, I said they moved but not immediately, the State here asked me at length about this and I tried to explain to the Court what I mean. 10

Well what does your not immediately mean? --- My not immediately, M'lord, I also used examples like if this Court adjourns - I didn't use this one but it fits, I tried to explain, it will be there on the record - if this Court adjourns the normal thing is that the people leave, but you could come back from that door and find people still standing there, they are moving out, that is correct, the Court has adjourned, but you still find people standing aimlessly there, not because they are not having any intention to disperse.. 20
(Court intervenes)

Would you say that would happen even after the Court gives a direction that they must immediately disperse? --- Possibly yes, Your Lordship, if you went out and came back you would find some people perhaps waiting for those who are at the door to go out, you will still find them standing, not because they are intending to defy the Court, but because the people have been seated there and there is no direct organisation in the / ... 3

the manner of their movement, that is what I am trying to say.

What organisation is necessary? --- Like if they were marching, I would have been having no difficulty in explaining this not immediately moved. Like I would point to the Court that there you see the front part is already marching, the ones behind are waiting for the space to be available so that they also start moving, and then you could actually see the motion ...(VOICE FADES AWAY)

What made you watch Accused No.2, or didn't you watch his movements? --- I wouldn't say watch as you put it, Your Lordship, but my eye caught him. 10

Well did you ever see Accused No.2 standing where you have pointed him out on RALLY A.10.1.AA? --- The question is did I ever see him?

Yes, there on that day? --- Before I saw the photos I couldn't remember it offhand, but when I saw the photos and saw everything I looked for him and saw him.

Oh so you managed to identify somebody on the photograph which you say is Accused No.2, you didn't see him there in that position on that day? --- No, I couldn't tell the Court without seeing the photos actually that he was standing there. But the photos assisted me in identifying him, and this with my memory now where I did say that I saw him, but not that I saw him in all the instances that afternoon..(Court intervenes) 20

I don't follow that reply, where does your memory come in when you see him on that photograph and you identify him, if you didn't see him there n that day in that position?

--- I was asked if I can make out Accused No.2, and I said yes, not that as this photo stands do you recall seeing Accused No.2 in this position, I wasn't asked that question. 30

If another man had that jacket on, you would also say it
is / ...

is accused No.2? --- I doubt if I would say that.

Why? --- The face of Accused No.2 ..(Court intervenes)

Are you trying to tell me that you identify his face on that photograph? --- Yes, that is right, I see his face.

Well what can you see about his face on that photograph? --- His features, Your Lordship.

Can you see his features on that photo? --- Yes.

Now tell me what can you see, can you see his eyes? --- Not the eyes as such, the features, the face in its entirety. 10

Well can you see the shape of his nose on that photograph? --- Well I would venture to say perhaps my mind forms it.

Pardon? --- Perhaps my mind forms it, I do see the face of him.

No, I am asking about the nose, do you see his nose on that photograph? --- Yes I see the shape.

The shape of his nose? --- Yes, but I want to consider the Court, that it could be my mind like, you know, the photos even, well, the eyes are not shown, you don't normally presume that the eyes are not there, your mind formulates the position of the eyes, this is what I am trying to say. 20

Have you a clear view of his mouth in that photograph? --- No. The picture isn't clear but ..(Court intervenes)

But what remains from which you can identify him? --- The features in their entirety.

But isn't the mouth a feature? --- Yes, I am not ..(Court intervenes)

Aren't the eyes part of the features of a face? --- I am not saying the mouth and the eyes alone, there is also the question of the general appearance of the countenance, it helps you formulate a picture of somebody. 30

Do / ...

Do you see a beard on that face? --- No.

Hasn't he got a beard? --- You mean here?

Yes? --- I don't see it here, Your Lordship.

Do you know whether he had something of a beard on that day? --- I can't recall.

Surely, how do you identify him then if you are not even sure about that? --- A beard in photos doesn't normally show, you actually presume it if you remember.

If he has a little bit of a beard, isn't that the first thing you would look for? --- Well I am talking about now it showing in the photograph, at times when I have taken photos with a beard I actually have to struggle to find out if it was showing.

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NO FURTHER QUESTIONS

NKWENKWE VINCENT NKOMO, STILL UNDER OATH:

EXAMINATION BY MR. PITMAN CONTINUED: Mr. Nkomo, would you look at EXHIBIT GENERAL J.3 please - do you recognise that document? --- I do.

What is it? --- This is a Press statement that I issued to the Rand Daily Mail after the Semi-Con.

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Now there is a State allegation in regard to this document - the State allegation is that this document evidences the threat of violent or unconstitutional means towards an armed revolution, or towards a revolution. What do you say about that? --- I say the allegation is untrue and there is no ground for such an allegation from this document. This is merely should I say a summary of what transpired at the Semi-Con and this was given to the Press. Here I am saying:

"Black people have since stopped crying and they have discarded the White cradle for a positive approach to the situation. This has been made clear by the call to contextualise / ...

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contextualise all aspects of Black experience and relate them to the struggle of the inevitable liberation".

Now, I think this paragraph is clear on its own, that Black people have now come to a stage where they are not going to look for hand-outs from the Whites, and where they are not going to look for hand-outs from the Government, but where they on their own will do something to better their position.

"Apathy and fear have been found to be enemies of the struggle because they inhibit the initiative and militancy of the people. The mandate that was given to the Convention in the seminar-conference is a clear indication of what is to come. This in fact signifies a permanent and more positive approach to the liberatory struggle".

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Now, when commissions sat and reported back, they indicated the difficulties that are in the Black community. Various commissions indicated difficulties that are experienced by the Black community, one of them being apathy and also fear. That is in most instances the commissioners realised that Black people tend to fear to do something of their own to better their position. Now I think the word "enemies" here is clear, it is not a reference to the Government, it is not a reference to the Whites, it is just a reference to fear and apathy, that those two factors are the enemies of the Black people in this context.

What do you say about the word "militancy", because no doubt it will be suggested that that is a significant word? --- Well, I use the word "militancy" in the sense of, you know, the preparedness and willingness of the people, their initiative, their preparedness and willingness:

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"The Convention has been mandated by Black people to utilise / ...

utilise all available resources towards eventual liberation which is inevitable. It is with sincerity and dedication coupled with commitment that the mandate will be executed and the responsibility assumed both for which the Convention is answerable to the Black people en masse".

Now I am just saying there what the commissioners came up with, the Convention was asked to put into practice - in other words all the reports of the commissions would be in turn handed to the National Council, and the National Council would now in preparation for Congress decide which aspects must be looked into or which aspects can Congress rectify. Now that is all I am saying here, that BPC will be responsible to the people on what the people gave them. 10

COURT: Now you say this was issued after the Semi-Con? -- Yes, after the Semi-Con.

And was it published? --- No, it was not published.

I mean this Press release? --- It was not published.

It never appeared? --- It never appeared.

You see, I remember now the last invitation that you wrote - in the invitation you tried to motivate the people, and you suggested that it was necessary to do something now. Well then you had your Semi-Con, now this is now after the Semi-Con ? --- After the Semi-Con. 20

Now here you say the Semi-Con has given the mandate, because in the invitation you do say that a mandate has to be given. Now what was the mandate? --- That is we must permeate into all aspects - as I use the word there contextualise all aspects of Black experience. Now if we look at the commissions that sat, we had one "reaching the masses", so in other words that commission sat and talked and came to agree 30

on / ...

on methods we should apply in spreading ourselves into the people, like making use of meetings ..(Court intervenes)

In what exhibit is that commission that you are referring to? --- Oh the commissions are not here.

So it was decided in the commissions you say to try and - well you put it here "to contextualise all aspects of Black experience"? --- That is right.

Now what do you mean by that? --- I mean to permeate the movement and Black Consciousness must be able to be received by Black people in all different aspects of their lives, that is in the educational sphere, in the religious sphere, in all the spheres of life. 10

Well, isn't that conscientisation? --- Now, when I say contextualise I am trying to say whatever we do must be done in the context of that particular aspect, those were the recommendations like education, that education should be an education that is relevant to the needs of the people. Now that is not conscientising, because education is ..(Court intervenes)

Deal with the problem in its context? --- Deal with the problem in its context, and where we can use - in positions that let me say - take the sports position, where we can be in a position of being one of the governing bodies in sport we should be able to use that to the benefit of the community. In other words we must be able to permeate into all spheres. Now that was the mandate that was given from the Semi-Con. 20

Give me another illustration, sport now we have a fair idea about. Now take education for instance, now how would you contextualise education? --- In the first place the commission came to realise that in fact education as practised now..(Court intervenes) 30

Well / ...

Well that is what I remember, it is Blacks by the Blacks for the Blacks? --- That is right.

So that would be contextualising it? --- That would now - in the sense that at that time we didn't have, or rather as education was practised we couldn't have the voice in influencing the direction of education. So what would happen would be for us to organise study groups, matriculants, and have extra study in the evenings or afternoons, and in there we try and, you know, put across the facts as they present themselves, try and broaden the minds of the people, but in fact the main consideration of the education commission was that we should try and get ourselves into the bodies that decide on the education of the Black people, and have a say in those bodies. But there was no cut and dried method that was suggested as to how we should go about it, but it was recommended that we must be in a position of having a say in the education of the Black people.

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MR. PITMAN: Mr. Nkomo, this document here, what is your comment, is this document in any way a violent act in itself?

--- No, it is not a violent act.

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Is this document in any way an unconstitutional act?

--- Well on this unconstitutional thing I am in difficulty here whether the allegation is that we are acting outside the Constitution of BPC as we have a Constitution in BPC, that the acts that we are doing are outside the Constitution of BPC?

No, I am asking you if it is an unconstitutional act in terms of South Africa? --- Oh no, the Constitution of South Africa doesn't debar anything of this nature.

Is there any threat in this document to violent action?

--- No, this is talking about positive action, something that will have positive results.

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Is / ...

Is there any threat in this document to unconstitutional action? --- No, none.

Will you look at BPC P.1, do you have that document before you? --- I do.

What is that document? --- This is a letter I wrote after the Semi-Con informing the branches of the changes in the National Executive and the suspension of the secretary-general, as well as urging the branches to prepare for Congress.

Now the State has put this in as a relevant document, are you able to comment on its relevance to the charge against you? --- Well, I don't really know what to pick out in this document, except probably the fact that we were going to have Congress, and as I indicated here, that is branches should have discussions, that is the third paragraph, about the fourth sentence:

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"Discussions should centre around 'liberation in the seventies through self-reliance'".

Now that was supposed to be the theme of the 1974 December Congress. Now, probably when I looked at this letter and I looked at the allegation that the State put, I found that they do ^{not} say anything, so I thought that in fact they realise that the message here was that BPC in that particular year was going to look into self-reliance, as to how now self-reliance would eventually take us to the goal that we want. There was no intention of looking into violence, or intention of looking into unconstitutional means, or anything revolutionary in this case. The Congress was going to deliberate on self-reliance as a means for this particular Congress.

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What did you mean by self-reliance, were you referring to self-reliance in a military way or self-reliance in some other way? --- No, I was referring to self-reliance in - should I say

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social / ...

social, you know, what we can do for ourselves to improve the conditions and not rely on the Government where we can do things on our own and see how far that would take us.

Would you have a look please at J.4 - now I am not sure whether it is BPC J.4 or - I think it is GENERAL J.4 headed Press release to the R.D.M. and also I think you had better be given J.4(a) which relates to that. Now do you recognise EXHIBIT J.4 and J.4(a)? --- I do.

Would you tell His Lordship what they are? --- J.4 is a handwritten copy.

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Wait a minute, let us just get this clear J.4 is a handwritten copy of? --- Of J.4(a).

COURT: Well, J.4 starts "The report as it appeared in the Rand Daily Mail"? --- I haven't got that.

MR. PITMAN: Do you have J.4 before you? --- I have two ..(Court intervenes)

COURT: Well, in part it is in manuscript but - PAUSE

MR. ATTWELL ADDRESSES COURT: M'lord, perhaps I can assist the Court in this particular instance, the handwritten copy - you will find there is a typed copy in front of that, that was typed 20 out by a police typist merely because the copies of the handwritten copy did not come out very clearly, it is in fact verbatim the handwritten copy.

COURT: Yes but now I only have one part, it starts with "Lastly .." which is really - it only reflects the three last paragraphs.

MR. ATTWELL: Perhaps I can hand up my copy to Your Lordship, the handwritten one is J.4, but a typed piece was placed on top of it because the copy was not clear. (DISCUSSION AWAY FROM MICROPHONE)

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COURT: Well anyway this is supposed to be a Press release to the / ...

the Rand Daily Mail, and the report as it appeared in the Rand Daily Mail is the one in your handwriting, is that correct? --- No.

MR. PITMAN: Just before we start let us get this clear, the exhibits you have before you, what are the exhibit numbers, what is the handwritten one? --- The handwritten one is J.4.

Is that what it says on it? --- From what I have been told by Mr. Attwell.

No what does it say on the exhibit?

COURT: It says that on the manuscript "the report as it appeared in the Rand Daily --" that is all it says, "Rand Daily". 10

MR. PITMAN: Is that typewritten?

COURT: No, it is handwritten, in manuscript - PAUSE -
(DISCUSSION AWAY FROM MICROPHONE)

MR. PITMAN: Yes, well I see that the handwritten one that you have which is before you does not have any exhibit number on it, but it would appear from the notes it is attached to, that the top one which is the handwritten one ought to be J.4, and that the typed one ought to be J.4(a). Now can we operate on that basis. Now the typed version which is J.4(a), you have been told by my learned friend, Mr. Attwell, was typed by the Security Police ..(Court intervenes) 20

COURT: No, it is the typed portion of J.4.

MR. PITMAN: Well, M'lord, J.4 has no typed portion on it.

COURT: Yes, well I believe that the police typed it, made a transcript of the copy manuscript and that is part of J.4.

MR. PITMAN: Well, may I look at yours again please - PAUSE - Mr. Nkomo, I withdraw that question, and I am going to put it to you this way. J.4 is in manuscript is it? --- That is correct.

Have a look at J.4(a), what is that? --- This is a typed copy. 30

Of? --- Well, part of it comes from J.4, but not everything that is in J.4 appears here, it is an edited version.

So what you are saying is that J.4(a) you have before you is a typed copy of portions of J.4? --- That is an edited version.

Who typed that J.4(a)? --- I did.

M'lord, may I take it then that before the Court is no police-typed version ..(DISCUSSION AWAY FROM MICROPHONE)

Well, where is it, the witness hasn't got it?

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MR. REES: M'lord, perhaps if I tell my learned friend .. (AWAY FROM MICROPHONE)

COURT: I could let you have a spare copy if you want one, Mr. Pitman.

MR. PITMAN: What I am really concerned about is that the witness should have one, M'lord, he hasn't got one, that is the problem I have.

COURT: Well he can have the use of this one.

MR. PITMAN: I want him to have the proper exhibit so that I know what I am talking about.

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COURT: Well now of course the version that was typed by the police also included what was erased by you in your manuscript? --- That is correct.

MR. PITMAN: All right, now, Mr. Nkomo, do you have before you J.4, which is a manuscript by yourself, do you have another document which is a typed copy of that manuscript also part of J.4, and do you have before you J.4(a) which is something typed by - by you? --- It was typed by me.

So you have three documents before you? --- Yes.

COURT: Now your edited version, J.4(a), is that the one that appeared in the paper? --- Unfortunately the papers didn't publish it

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Was / ...

Was this not published either? --- It was not published because they said it was sent by the Durban correspondent so the correction must come from Durban.

MR. PITMAN: Now, would you point out what is significant about the manuscript J.4 in relation to portions that are erased --- Well, in the first place J.4 is a draft copy where I started.

That is the manuscript one? --- That is the manuscript one, that is how I put the ideas as they came. And then after finishing I went through the copy, J.4, just to see whether everything came out correctly, and I came to this portion that I took out here, that is:

"The Convention is committed to the overthrow of the racist regime. Until such time that we dedicate and commit ourselves to a total overthrow of racism"

Now, that is after I reread this, before I typed it, I came to realise that in fact this portion may be misconstrued, so I felt rather not to have any difficulty, I must take that portion out, and I typed now J.4(a) without that portion.

What is it that you sent to the newspaper? --- I sent J.4(a) to the newspaper.

Which newspaper? --- To the Rand Daily Mail. Now this report was the follow-up to a report of the symposium, the Durban symposium that was held on the 15th September 1974. The Mail published a report and there were incorrect statements in that report, so I wrote this letter correcting that report, and there were other inferences or insinuations in that report that I felt I had to correct, then I wrote this J.4(a) and sent it to the Rand Daily Mail, but they didn't publish it.

Now the State allegation, the first one is that this evidences / ...

evidences an act to create a Black Power Bloc hostile to the State and to White people? --- Let me just go through the document - PAUSE - No, there is no indication here of forming a Power Bloc that would be hostile to the State or the Whites. The first paragraph, that is a correction of what appeared in the newspaper of the 16th, in the Rand Daily Mail of the 16th September 1974, where it was reported that Mr. Zeph Mothuping, who was one of the guest speakers, was the national organiser of BPC, and this is what I corrected here. And I pointed out that in fact he was a guest speaker together with Dr. Manas Buthelezi, and Accused No.6, that is Brother Nefolovhodwe and Brother Norman Dubazane, who were from SASO, and I in fact sort of tried to take the Rand Daily Mail to task for deliberately omitting to talk about what these people had said. Now in that symposium, Mr. Mothuping had referred to the Labour Party as a jilted lover, but if I remember very well the slant in that report was quite unfavourable. I don't remember the exact thing about it now, because I have not managed to get a copy of that report, so I had to correct that, that in fact - it looks like the people are saying BPC^{is} against Coloureds, if I am not mistaken, something to that effect. Now what I was saying here was that we do not want what Mr. Mothuping had said, or we do not want people who come to us simply because they have been failed by the White man, as a latter resort they want to come and join BPC, but we want people who have realised that there is need for Black people to stand together. They must not come there because they say the White man has failed us, or the Government has failed us, therefore we are going to BPC, but they must come because they realise that there is need for us to stand united. And well, I just reiterated, that is BPC's stand on

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Government-created / ...

Government-created platforms, that we reject Government-created platforms like Bantustans and C.R.C., and we believe that when we come together and stand united, our liberation will be realised. Now the last part where I say:

"Black people do not want to be assimilated into the White society by being given representation in Parliament and other minor concessions. Let this be clear to our Coloured brothers that BPC is their vehicle to their liberation"

Now what I am talking about here was that in fact Black people are not satisfied with having - we say we are being represented like commodities in Parliament, Minister of Bantu Development, Bantu Administration, Minister of Coloured Affairs, Minister of Indian Affairs, but we don't have a Minister of White Affairs, that kind of representation is not what we want, and in fact our aim is not to be assimilated into the White society either, we want to live together, coexist as fellow-countrymen. That is what I was referring to here, that these departments that are supposed to represent us, we are not satisfied with that, we want to be there ourselves and represent ourselves. We must not be a department that is represented as if we are not people, we are community development - Minister of Community Development, Minister of Internal Affairs and Minister of Bantu Administration. 10

Is there any threat in that document to violence or unconstitutional means? --- No, there is no threat of violence, even if I had to take the portion that I cancelled in the manuscript, I was just saying the overthrow of the racist regime, even had I not removed that the message is still clear, that we are opposed to racism, we are not merely opposed to the Government because the Government is White, but we are opposing the Government because it is racist, and when I use the / ... 30

the word overthrow, well I thought about it later, that because in many instances we tend to associate the word overthrow with violence and things like that, and I thought that would give a very bad impression, so I decided to cancel it.

Now eulogising criminals, is there any - "supporting and eulogising people convicted of subversion" is there anything like that? --- Well I hardly made mention of anyone who has been convicted of any crime in this document.

Was your purpose to denigrate the homeland leaders? 10
--- Oh, not at all, not to denigrate the homeland leaders. I was just stating our stand, that we are opposed to the homeland idea.

Now was that published like that as you sent it? --- This was not published altogether, because what had happened, the man who covered the symposium was a Durban correspondent of the Rand Daily Mail, so I sent it to the Johannesburg office where I was also based ..(Court intervenes)

COURT: Well they didn't accept your authority? --- Well they said that the correction should come from Durban, from the correspondent. 20

Would you now please look at document BPC N.3 - N for Nellie - have you got N.3 and N.4 there? --- I have got them.

Do you appear on those photographs? --- I do appear on these photographs.

Just tell His Lordship what the occasion was? --- This was the (student) symposium that was held in Durban.

At the Kajee Hall? --- At the Kajee Hall, and the man in the black jacket there, that is in N.3, the man in the black jacket and tie was the gentleman that I asked to leave the meeting. 30

Because / ...

Because? --- Because the chairman had said that he had spoken to that man and that man had said he was an ANC man, but he was not satisfied because that man proved to be, shall I say, you know, shilly-shallying, so he said he was not satisfied with his credentials, and we asked him to leave. Well I don't think there is an allegation about the photograph, probably except that the State paid me a compliment of being handsome in this photograph..LAUGHTER..

COURT: Did you want to assault him, is the other man holding you back here in EXHIBIT N.4? --- No, no, no, in N.4 he was trying to say: but listen, and I say: no, no, Baba, go. 10

I am not talking about the Black man, I am talking about the man who is holding his hand up against your chest, is he trying to take you away? --- No, he was saying: let us go back, leave him now, he is already outside, let us go back.

You didn't want to go back? --- Well in any case it can appear that I was not angry as it appeared in the photograph, I was almost suppressing a smile.

Oh, yes. .LAUGHTER..

MR. PITMAN: What were you saying to him, that man in the black coat? --- No, he was saying he wants to come in, so I say: no, Baba, Hamba! 20

COURT: The other man was holding his arm on the other side? --- Well he was still - we were still, we had just come out from the top floor, so we were taking him down.

MR. PITMAN: Now, Mr. Nkomo, I would like to refer you to Annexure 7 please.

COURT: Did you manage to fix the identity of this man whom you were told was an ANC man? --- If I am not mistaken he was something like Moses Dhlamini, I met him subsequent to that meeting. 30

Well / ...

Well did you people allow him to go back into the meeting? --- No, he didn't come back.

Were you prepared to let him in again? --- No, I don't think we would have allowed him.

Well now did you find out who he was or what his connections were? --- No, I didn't have time to talk really to the Reverend Mayathula who was the chairman, because immediately after the symposium he had to leave for the theological seminar that they had at Mapumulo.

Why didn't you want an ANC man to attend your meetings? 10
--- Well, not that we don't want ANC people to attend our meetings really, but what the chairman said, he was dissatisfied, he said he had had a chat with that man, I think the man approached him, or he didn't tell us the circumstances, probably to find out one or two things. Then they had a chat, and this man said he was a member of the ANC, and I don't know everything that he said but apparently when the Reverend Mayathula sort of cross-questioned him, he didn't come out properly, he said something like he was a supporter of Gatsha, and that kind of thing, so the chairman felt he was very 20
dissatisfied with the man.

Who is the other man holding his arm here? --- That was my assistant, organisational assistant, Mahlomula Skosana.

MR. PITMAN: Now, Mr. Nkomo, have you got before you Annexure 7? --- I have.

Now just identify that document first of all? --- This is a document that was typed - prepared and typed by me.

Are you the author of the document? --- I am the author of this document.

And is it the one that starts "There is a wave that has 30
been sweeping through Azania"? --- That is correct. Just to
give / ...

give the Court some background to this. I started writing this in the train every day when I commuted to Pretoria and head office, you know, to keep myself occupied I started writing during the journey, and I realised that it was taking form, in fact it was becoming, you know, something tangible. So I decided to continue now with it and develop the ideas as they come to me, and eventually I had completed it, that is handwritten first, then I typed it, with the idea of looking into it and improving on it and so on. And being the national organiser I was a man who was undertaking tours, you know most of the time. So I felt if I have this kind of material with me, I can never be caught unawares, I can always have something to say if I must address a meeting and so on. But there was no specific purpose for the preparation of this document. So when I went down only two copies existed, that is the original and the carbon copy.

10

Who typed it? --- I typed it. So when I went down to Durban during the Frelimo rally period, I went down with this particular copy in my case, and I left it at Harry Singh's place, and Harry Singh's place was raided on, I think, the Thursday, early in the morning, 2 a.m. on Thursday, and when I came to collect my bag and things I found that petrol bills and other expenditure bills together with some of the documents that I had there were not there.

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And this document, Annexure 7? --- Well at that moment I didn't realise that it was in there, in fact I didn't detect it immediately, I only saw the bills because they were conspicuous, that they were missing, expenditure bills and all that.

Now before we go on, we will probably adjourn in a moment, but I would just like you during the adjournment, the

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question / ...

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question / ...

question I am going to ask you is this document in itself, and on its own, is alleged by the State to be a terroristic act, and it is alleged that this document was written with the intent to endanger the maintenance of law and order in South Africa.

COURT ADJOURNS

/VMD.

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