

SHUN CHET

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

CASE NO: 18/75/254

DATE: 4TH JUNE 1976

THE STATE

VS

S. COOPER AND EIGHT OTHERS

VOLUME 106

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LUBBE RECORDINGS (PRETORIA)

THE COURT RESUMES ON THE 4th JUNE, 1976.

JUSTICE EDMUND LINDANE MYEZA: still under oath:

FURTHER EXAMINATION BY MR SOGGOT: I think yesterday we got as far as Rally A.4. Is that right? -- That is right.

Have you got that in front of you? -- Yes, I have it.

Would you tell His Lordship the circumstances of your writing that and what you intended in the words there? -- Yes, may I just have the draft to this typescript? I drafted this pamphlet to invite the people to Curries Fountain on the 25th September. (10)

Whose wording was it? Was it your wording or did anyone else assist you? -- It is my own wording and Rally A.4(a) Your Lordship will see that was the draft to this pamphlet and I think I will just explain a few things here, on this pamphlet.

Would you do so please? -- The pamphlet reads:

"VIVA FRELIMO!! SUPPORT FRELIMO!!!"

and then comes:

"Reactionary or Revolutionary??"

and if Your Lordship looks at the draft, it says: (20)

"Are you reactionary or revolutionary"

and what I intended this to mean was: are you for change or are you not for change I would say in thought.

Yes? -- And then it goes on to say:

"Your home is my home; Your country is my country!!"

and then I give a brief resumé of Mozambique and South Africa.

"Mozambique has been oppressed for 400 years. South Africa is oppressed for the past 322 years." (30)

And then:

"How/..."

"How long are we prepared to wait
for change?"

and then:

"How much longer??"

And then I go on to say:

"Africa weeps for us. My country
needs me."

And then I say:

"Everybody is invited to the "Viva
Frelimo Rally" to be held at Curries
Fountain on the 25th ..."

(10)

And the speakers, SASO, BPC and Frelimo and then:

"Seize the Time."

"Seize the Time" merely means attend this meeting.

Is that a phrase which had been used before? -- I have
used this phrase before.

In what context? What do you understand by the phrase?
-- I understand by the phrase that one should take, seize the
opportunity of doing the best that you can.

Unless I did not hear you, there is a phrase here: (20)

"Afrika is Black. South Afrika??"

-- Oh, yes, oh, yes.

"Afrika is Black. South Afrika??"

These are the questions that I was posing to interest the
reader into seeing that these are the things that we as South
Africans have to decide upon and I think the answer there has
already been given that South Africa is a part of Africa and
South Africa is, shall I say, Black.

Now, did you cut that stencil, is that in your hand-
writing? -- Yes, and if I may just point out. I cut (30)
the stencil out, I ran the pamphlets and I think I ran about
three/...

three reams. Each ream has got 500 pages and then I had to stop because it was pointed out to me by Yagan Naidoo that this particular pamphlet, Rally A.4 did not indicate the time.

About what time was it when you ceased operations on this pamphlet? -- During the early afternoon.

Early afternoon of? -- Of Saturday.

Now as far as the Zulu version is concerned, have you any comment on that? -- It is a translation.

It is a translation. Who did the translation? -- I did.

You did. And is it a correct translation? -- It is. (10)

Just for the record. So Yagan Naidoo pointed out to you that this was not appropriate for that reason. So what then happened? -- I then stopped act of the running of this pamphlet and another pamphlet was drawn up and I think Bawa has given evidence of this.

Who drew up that other pamphlet? Are you talking about the one drawn up by Mr Cooper? -- Well, what happened was Nkomo had gone for lunch. Then when he came back, he drafted - he came back with a draft.

He came back with a draft. -- With a draft and that (20) is the draft that we .. (intervenes)

That you then finally put out. -- We finally put out, yes.

And is that contained in Rally A.5? -- Yes.

And then was that roneod? -- Yes, it was roneod.

How many were roneod? Do you know? -- Oh, many. I would say round about 6 000.

6 000. -- Yes, and because you see, when we ran out of the stencil, we cut the stencil and if it gets spoiled, you cut another one, so we were just re-doing the same version of the pamphlet over and over again. (30)

Now, while we are still on the pamphlet, can you tell us
about/...

about the distribution? First of all in relation to A.4 and then in relation to A.5. How many were distributed and where? -- A.4 was distributed the number was very small because there were no more of them.

Well just give us your personal knowledge. Do you know of your own knowledge how many of these A.4's were distributed and where? -- Some students coming to the office would take one or two and go and I think I also distributed a few.

Where? -- In Beatrice Street.

In Beatrice Street? -- Yes. (10)

Is that where there are bus ranks? -- No, Beatrice Street is .. (intervenes)

Handing it to passers-by? -- To passers-by.

And were any others distributed that you know of? Or let me put it this way: were other quantities handed to other members? I just want you to give His Lordship in brief ... (intervenes - speaking simultaneously)

... as possible how many were probably put out? -- Of the three reams I think about 2 or 2,5 reams did go out.

Is that about 1 200? -- (No audible reply) (20)

Allright. Now, the banners were also painted. I do not think we need go into that. You have heard No. 1's evidence on that. Is that correct? -- Yes, and I also agree with what Bawa says as far as .. (intervenes)

You agree with what Bawa says on that point. -- The banners.

I do not think I asked you this. On Saturday was No. 4 in the SASO office? Can you remember? -- The doctor?

That is correct. -- Yes, he did come.

And did he have any comments to make or suggestions (30) in relation either to the holding of the rally or the expedition/...

expedition to Lourenco Marques? -- He was quite pleased with the whole idea of the holding of the rally, but he was not that much pleased with the publicity that we had put up up to that time and when Harry Singh suggested that he go to - that is he himself, Harry Singh - go to Lourenco Marques, No. 4 was present.

No. 4 was present. Well, that brings us then to Saturday and the distribution of pamphlets. As far as you are concerned, did anything of significance happen on Sunday? -- No, except that Bawa mentioned the distribution, further distribu- (10)
tion of pamphlets and going to No. 4's house in Umlazi. We went there to No. 4's house in Umlazi to get petrol. I think Your Lordship will know that in 1974, I do not know now, petrol was sold only up to Friday.

Well, whatever it is, they came for petrol and No. 4 contributed to the distribution. Is that right? -- Yes, we went with him in the car and .. (intervenes)

Distributing leaflets. -- No, that time we were not distributing.

Was that with the megaphone? -- With the megaphone, (20)
yes.

Now on Sunday were there any press reports? -- On Sunday there were press reports.

Just give us a brief indication of the state of the press reports, because they are relevant to your explanations and comments in the tapes. Just tell us what press reports ... --
On Sunday the people I remember having reported this with the - specifically the Sunday Tribune and the Sunday Times. They were not - they were just giving the facts, that is SASO intends doing this and this and this. (30)

Then can we now deal with Monday, did again as far as you
are/...

are concerned, anything particular happen? -- Well, on Monday the newspapers were reporting, but now they introduced the slant that we were smuggling .. (intervenes)

MR REES: M'Lord, at this stage, if my Learned Friend wishes to rely on newspapers, unless he lays the foundation that these things are not available and cannot be found, I submit it is secondary evidence and it is a basic rule that where other evidence is not shown to be available, the best evidence must be produced.

MR SOGGOT: M'Lord, we will put in the cuttings. At (10) this moment the cuttings file is not in my possession. There has been a certain amount of disorganisation I am afraid, about getting the documentary exhibits necessary for this evidence, but my Learned Friend is obviously correct. You say the newspapers were - give it to us very briefly because then we will put the newspapers in and they will speak for themselves. -- The newspapers were saying we were smuggling in Frelimo speakers and they were really not news reports, they were comments and the comments .. (intervenes)

Well, what I want to know from you is did you ever (20) or any member of the organisation, to your knowledge, tell the newspapers, to your knowledge, tell the newspapers that you were going to smuggle in Frelimo speakers? -- No.

If I may in this chronology refer to the expedition to Lourenco Marques, you phoned Bokwe, did you not, in I think Botswana. -- Yes, on Monday.

What was the purpose of that call? -- I phoned Bokwe with the purpose of getting him to assist Harry Singh and company in getting in contact with Frelimo. I phoned Bokwe specifically because he was a journalist, he had been (30) in South Africa and he left the country and I think he was
the/...

the president of the Union of Black Journalists, so he had, I assumed, a number of contacts.

And you thought he might help with the Frelimo government. Is that ..? -- I thought he might help.

Did you know him personally? -- Not personally.

Had he been a member of the organisation? Or of BPC. -- I was not certain.

You were not certain. Alright, well, we will deal with that tape in due course. Just on the question of who you expected from the Frelimo government, did you expect as (10) it were, a brace of cabinet ministers or what sort of people did you expect might turn up? -- I expected people representative of Frelimo, be they cabinet ministers or spokesmen .. (witness is speaking very softly).

I am worried that your voice is fading, I am not sure that it can be heard by the accused. Please speak up. That Monday - is there any further comment on what happened on Monday? -- I phoned our regional secretary in Johannesburg, that would be Gerald Phukudje, to ask him how far he had gone with the arrangements for the rally and in his region, the (20) Transvaal region, was the canvass(?) the University of Turfloop. It was then that he told me that he had been to Turfloop for a formation school. I knew that, that he would be going to Turfloop for a formation school and that the SRC .. (intervenes)

May I just ask for clarity, is this a conversation which is on the tapes? -- No, it was not on the tape.

Carry on please. -- He told me that .. (intervenes)

MR REES: M'Lord, I object to what this man told him. It is hearsay.

MR SOGGOT: I do not understand how it can be hearsay. (30)

I would imagine that this is part of the machinations of the organisation/...

organisation and one of the questions is what was Turfloop's involvements, and what was this person's understanding of Turfloop's involvement.

MR REES: My submission is that it is the very point in issue and .. (intervenes)

BY THE COURT: He is not tendering it for the proof of what was discussed, but he only tenders it for the subject that was being discussed. Is that correct?

MR SOGGOT: That is perfectly correct. -- He told me that the SRC had announced that they (that is the SRC) was (10) organising the rally.

This was the conversation on Monday, you say? -- On Monday, yes. And then I also phoned our regional secretary in King William's Town, that is Mapetla Mohapi, to find out how far he had gone with his arrangements in King William's Town.

Is that conversation on the tapes or not? -- No. And then I also phoned our other regional office in Cape Town, but I could not get hold of Danile Landingwe.

Now at that stage the plan was to have a BPC/SASO ... (intervenes) (20)

BY THE COURT: Before you leave that. Why did you think there was going to be a rally in these places that you mentioned? -- Because we had agreed on it on the meeting of the 15th and these various people, Mapetla Mohapi, Gerald Phukudje, Danile Landingwe had been - had said they were going to organise.

Were they in Durban when the agreement was entered into? -- At the same meeting on the 15th.

These people from all over? -- Yes, they are the staff of SASO.

And where were the rallies to be held? -- In (30) Johannesburg they never - Gerald did not come out, he did not arrange/...

arrange for specifically where the rally was to be held, but ..
(intervenes)

How did Turfloop come into it? -- Turfloop is in his region so he had to get in touch with the branch there and put this suggestion forward to them to organise the rally. So I think what happened when he got to Turfloop, he heard that the rally in Turfloop was by the SRC so he totally fell out and then in Cape Town Danile Landingwe was the regional secretary there. I think it is there on the conversation with me on Tuesday, he was arranging for such a rally in Cape Town (10) and in King William's Town there was the regional secretary, Mapetla Mohapi. He had in his region the branches of the Federal Theological Seminary and Fort Hare and he had to arrange for a meeting there, but he told me that - over the phone - that in September the students were on holiday and the branch in Fort Hare it was not possible for him for some reason or other to arrange for that and then he had intended getting a hotel in East London for this meeting, but it also did not come off well.

But now what form was the rally to take? Was that (20) agreed upon at the meeting in Durban? -- Yes, it was agreed upon

What form was the rally to take? -- The rally would take the form of a meeting, that is our people standing up and speaking on the topic.

When you say 'our people' what people are you referring to? -- SASO and BPC people.

And Frelimo? -- Frelimo, if they did come, would first have a meeting with them in Durban and if we could dispatch one or two to the various places then we would do so.

Was it discussed at your original meeting that (30) Frelimo would also be .. -- At the original meeting it was not discussed/...

discussed.

Did you ever contact any of the other organisers to tell them that you are getting speakers for them from Frelimo? -- We did speak about it, but I think I should put Your Lordship in the picture in this way that Frelimo, the invitation to Frelimo was really for Durban and if we felt we could give the speakers over to the various branches organised, we would do so, but essentially it was a Durban thing.

Was that discussed with the other branches that if you could spare Frelimo speakers you would .. -- Over the (10) phone, yes.

Over the phone? -- Yes.

MR SOGGOT: I am not quite clear. If I may ask, on the 15th that is at your staff and executive of SASO meeting, was there any reference to the possibility of Frelimo people being called in to speak? -- I cannot remember precisely, but if there was mention, it would have been in this context that we would inform Frelimo about what .. (intervenes - speaking simultaneously) .. the government of Mozambique about our rally.

But without being hypothetical, have you any (20) recollection, can you give any evidence on any discussion? -- No, I have no recollection.

And with respect, I do not think you have answered His Lordship's question fully. His Lordship asked you what agreement there was in respect of what was to be - how the rally was to be held or the meeting was to be held. Can you tell His Lordship, on the 15th, apart from the motion that you were to hold meetings in celebration of the events, was anything said about .. (intervenes)

MR REES: M'Lord, I think he should tell the Court what (30) was said.

MR/...

MR SOGGOT: I was going to direct his attention now

(intervenes)

BY THE COURT: He is only directing attention to the ...

(intervenes)

MR SOGGOT: I am just trying to speed things up. In regard to how it was to be organised, what publicity was to be given and so on. -- The organisation or organising of this meeting was to take the normal form that we usually adopt when we advertise for meetings, that is you advertise that there will be such a meeting at such a place at such a time and (10) you invite people, you invite speakers to come and speak on topics and here when we talked about this at the meeting of the 15th, we said it would be very advisable that only people from SASO should speak at these meetings because then the people would speak on behalf of the organisation as Black consciousness people.

Was there discussion as to where these meetings would be held? -- No, we had not come to the conclusion that we will hold a meeting there, you hold a meeting at such and such a place. (20)

BY THE COURT: If I understand your evidence correctly, you had representatives from the various areas and they had to decide where they would hold their meetings in that area. -- That is right.

MR SOGGOT: And was it up to them to decide what means they would adopt for advertisement and selection of speakers and so on? -- Yes.

BY THE COURT: Didn't you discuss the question of pamphlets at your meeting, regional meeting? -- No. As I tried to point out, we do advertise for meetings and when we call a (30) meeting we either to to the press or we issue out a hand bill to/...

to say there would be a meeting organised by SASO or BPC.

Every area decides for itself how they are going to publicise the meeting? -- Yes.

MR SOGGOT: Now, the Reverend Mayathula, did you have contact with him round about this period? -- Yes, I phoned.

I am not talking about the 25th now, before then, did he figure at all, as far as your personal knowledge is concerned? -- Do you mean that I knew the Reverend Mayathula or not?

No, no, did you talk to him or were you present in any conversations with him prior to the 25th? I am talking (10) now in the context of the rally. -- Yes, I phoned.

You phoned him? -- Yes.

On what day? -- On the Monday.

And what was that discussion about? -- I was - I asked him to come over to Durban. I phoned him so that he could come. I intended that he would be the master of ceremonies at our rally in Durban.

At your rally. -- Yes.

And what was - when did you tell him he should come? -- I told him he should come that same day and he said ... (20) (intervenes)

This Monday you mean? -- Monday, yes. He said he would do so, telling me he would come the following day.

What was the idea of asking - if he was going to be the master of ceremonies, why ask him to come into Durban on Monday? -- Because I wanted him to be present to be able to understand what this whole thing was about. I didn't want him to just come and say now you are the master of ceremonies.

Now he was out at Mapumulo, is that right? -- Yes.

How far is that from Durban? -- It is about 30 (30) miles.

I/...

I think that we can move on to Tuesday. I do not think you have dealt with Tuesday yet. Can you tell us briefly what you did on Tuesday? -- On Tuesday there were the newspaper reports, particularly the report that appeared in the Natal Mercury. And the Natal Mercury report was saying that the Durban rally was banned. I read this report and from my reading of the report it was full of contradictions and I realised that what the report was in actual fact saying was not true, this rally was not banned. Then earlier on that morning - at least that same morning, accused No. 1 came to the (10) SASO office. We read this report together with him. Then I asked whether he would get us a copy of the Riotous Assemblies and he did that. So from the - we read the Riotous Assemblies Act and we realised that the report in the newspaper was incorrect. We also had talks with one reporter for the Sunday Times, his name is G.R. Naidoo, and he told us that his paper had been in touch with the Minister of Justice.

MR REES: I object again to hearsay evidence as to what Mr G.R. Naidoo told him.

MR SOGGOT: M'Lord, I did not intend to lead this evidence.(20) I ask that it be struck off the record.

BY THE COURT: After you spoke to him, what happened then? -- Then I phoned Ned Serache.

Is that the Rand Daily Mail's man? -- That is the Rand Daily Mail reporter. And Ned Serache told me the Minister of Justice .. (intervenes)

MR REES: Again I object.

MR SOGGOT: Well, I think Ned Serache was reporting news. Is that what went on? -- Yes.

Well, I think that is all in the tapes, so I do not (30) think you .. (intervenes)

BY/...

BY THE COURT: The conversation with Serache, does that appear on EXHIBIT RALLY B.1, the tape? -- No, it does not.

MR SOGGOT: He gave you information about the minister. Is that right? -- Yes, he gave it.

M'Lord, I am not sure whether I should ask Your Lordship to allow me to lead this evidence, subject to its admissibility, because I must confess at this moment I cannot say it will not turn out to be relevant to his state of mind.

BY THE COURT: Is it inconsistent with what appears from the telephone conversations, information you got from Serache? (10) -- The thing is what he told me that morning, we do not talk about in the afternoon, but there is in the conversation an indication of what we talked about.

In your conversation with No. 6? -- No, in the conversation with him, Ned Serache, ^{same} that/afternoon.

Again on the tapes? -- That one is on the tape.

Well, then you do not need it. It is the same as the conversation in the afternoon. -- Well, I do not think I am coming out clear. What he told me about the minister is not in the conversation with me in the afternoon, but there (20) is an indication in that conversation of what he talked about that is what the minister had .. (intervenes)

As a result of your conversation with him, you had another conversation which really reflects what he told you? -- Yes.

MR SOGGOT: M'Lord, may I show him the copy of the Natal Mercury which I think he has referred to? I think this would, it is a Defence exhibit, it would be GGG. M'Lord, I must apologise, I have got a copy for my Learned Friend, but I haven't any other copies of that.

BY THE COURT: That is the Natal Mercury? (30)

MR SOGGOT: That is Natal Mercury. I think that the context of that/...

that appears in the tapes as well, does it not? -- Yes, it does.

So I do not think you should spend time reading it. May I show you the original of a Sunday Times, there is a note suggesting it is Sunday Times: "SASO invites Frelimo to South Africa."

BY THE COURT: What exhibit?

MR SOGGOT: That should be HHH. We will make copies of these.

BY THE COURT: Is it very important to the case?

MR SOGGOT: I think in fairness to my Learned Friend I should give him a copy and perhaps it is a fact which I would (10) suggest is of relevance to the unfolding of events. Is that the Sunday Times report you are referring to? -- Yes.

I wonder if we could hand that in as HHH. Did you see accused No. 1?

BY THE COURT: What is false about that report? Incorrect about the report? -- Only a slight thing, a small thing that is incorrect about this. Where the report I think says, the reporter says that I said one of our representatives was already in Mozambique and we were sending some other emissary to get three more. That is incorrect. (20)

MR SOGGOT: But that is not the report which deals with smuggling, which was your complaint. -- No.

Then did you see accused No. 1 that Tuesday and can you tell us what the two of you did and discussed about the holding of the rally? -- Yes, after we had looked at the Riotous Assemblies Act and compared what this report was saying, we reached the conclusion that the rally was not in actual fact banned and the statement was subsequently issued saying that we were going ahead with the organisation for the rally.

Of the rally. -- Yes. (30)

And let me just ask you bluntly now was it ever your intention/...

intention to proceed with the rally in defiance of any banning order? -- No.

Did you see Mabandla at all that day? -- Oh, yes, I did not see him, he phoned me, but I think I should put your Lordship in this light in this that, at about lunch time on Tuesday accused No. 1 and myself went to see Advocate Skweyiya and Advocate Jacob about this banning that was in the rally.

Do you mind spelling those names please for the record? -- Skweyiya is S-k-w-e-y-i-y-a and Jacob is - I do not know whether it is .. (intervenes) (10)

BY THE COURT: Well, it is Jacob, it is not a difficult name. -- And then we spoke to them about this and when they said this rally was not banned, then we were quite entitled to go ahead and then .. (intervenes)

MR REES: I must object to this. If these two people gave that advice, they must come and give evidence here to prove that.

MR SOGGOT: My submission is this is relevant to his state of mind and I tendered it for no other purpose. To show his state of mind, he is concerned with the question of legality and it has no other bearing other than the question of (20) mens rea.

BY THE COURT: That he consulted a legal man.

MR SOGGOT: That is so and that he received this advice and that .. (inaudible - noise in background)

MR REES: That is the point I object to as to the contents of that advice because .. (intervenes)

BY THE COURT: But he is not relying on the contents.

MR REES: Yes, but my Learned Friend says he is relying on it to show the man's state of mind. (30)

BY THE COURT: His state of mind being that he consulted a lawyer/...

lawyer.

MR REES: That is as far as it goes. Then this other piece where he said what the man told him .. (intervenes)

BY THE COURT: He is not relying on that.

MR REES: .. that is inadmissible then.

BY THE COURT: You are not relying on that?

MR SOGGOT: I am not. Whatever the lawyer said is relevant to showing what he understood from the lawyer, but no matter what the lawyer said is in no way tendered as proof of the truth of the contents of what the lawyer said. Please carry (10) on. -- And then that afternoon Mabandla phoned me and he said to me that he had been to the city and he had spoken to ... (intervenes)

MR REES: Again here is hearsay evidence coming.

MR SOGGOT: I really think if my Learned Friend could ..(?) himself for a moment because .. (intervenes)

BY THE COURT: He does not like hearsay evidence.

MR SOGGOT: Except there seems to be a fundamental confusion and that is hearsay evidence equals oral evidence.

BY THE COURT: But then you must indicate for what (20) purpose you tendering it.

MR SOGGOT: It is the same purpose. As I understand the evidence it is precisely the same thing, their state of mind and again the question of legal advice and legal actions.

MR REES: This is the basis of my whole objection. My Learned Friend seems to be intent on saying he can lead this evidence to show what the accused's state of mind is. Then he says, the accused says I was told so and so by so and so and so and so to prove his state of mind. In other words, the basic assumption is that these words were in fact told to him. (30)

BY THE COURT: He merely shows that he went to a person and he discussed/...

discussed a topic. What the advice was or what the person said not evidence, because it has no testimonial value, but the topic is relevant because it shows what he was discussing with the person.

MR REES: But here again he is leading from the man exactly what he says.

BY THE COURT: In order to show what the topic was that they discussed.

MR REES: I submit even to show the topic he can call these people to come and say this is the discussion, etc., (10) because it is objectionable in that he is trying to show what his state of mind was with reference to what other people purportedly said and it may turn out these people said something entirely different to what he is claiming they said.

BY THE COURT: That is if he is relying on the advice that the people give him, but he is only relying on the fact that he was engaged with that sort of topic at the time. I will not pay any attention to the testimonial value of all this evidence. It is only the topic.

MR SOGGOT: Please carry on. -- Lindewe Mabandla told me (20) that he had spoken to a lawyer, Shun Chetty, and that they had discussed the question of a restraining order.

To restrain whom? -- To restrain the Minister from banning this rally and then I went to see Shun Chetty and he told me that he was .. (intervenes)

A little bit too quickly. Why did you go and see Mr Chetty? -- About this matter that Mabandla had told me.

Try and be a little bit more specific. What were you thinking of doing? -- I wanted to go and see what he had in mind about a restraining order, but when I spoke to him, (30) he told me he did not have a restraining order in mind, he had/...

had a declaratory order in mind. So I said well, we cannot talk about a declaratory order because this meeting is not banned and the advocates had spoken to - have had this to say.

BY THE COURT: So you went in to discuss relief in this matter?

-- Yes.

As far as the rally was concerned.

MR SOGGOT: Then would you carry on please? Had there been any news from Maputo or Lourenco Marques as it then was? -- No, there had been no news and that same afternoon - I think I should put Your Lordship in the light this way: I had (10) intended to get hold of the people who I was working, organising for this thing and make some preview, a forerunner to the rally by way of a press conference, but now it fell out that the people from Mozambique did not come back at the time that I had expected them to come back. I expected them to come back by Monday and by Tuesday they had not come back and there was no news of what had happened to them. So in anticipation of their arrival which was any time between that time Tuesday afternoon and Wednesday, I sat down to write a few points that I thought would be worthy of discussion. (20)

And what happened to that document? Has that document been handed in? -- Yes, that document is in court.

There are two documents I think attributed to you. There is Rally A.1 and Rally A.2. Do you know which one it is? -- I think it should be A.2.

Can you go through that and briefly indicate what was in your mind when you wrote the various propositions there? -- As I have explained, what was in my mind was to get into a meeting with the SASO people, the BPC people and if the Frelimo people did come, together with them to discuss the rally. (30)

You have got in the very top line there the words

"Joint/...

"Joint Consultation". -- Yes, I have got "Joint Consultation Frelimo, SASO and BPC".

I just want your state of mind. What were you going to - you say this was done in anticipation of a meeting of the lot of you. -- Yes.

With the Frelimo people. -- Yes.

And what were you going to do with these ideas in that meeting? -- These ideas I was going to put forward to the meeting, first with the view of offering an excuse why we could not have the Frelimo people at the meeting and it was (10) to put across really what these rallies were all about.

Try and be a little bit clearer. You have indicated that .. (intervenens)

BY THE COURT: I think the best thing is to split your statement up into separate points and I think then you can more precisely tell us how you intended dealing with those points. What would be your first point? -- My first point would be now the newspaper was saying this rally was banned when it is not banned and they are making a mountain out of a molehill. That would be in the first paragraph. And this would (20) refer to the White group, as I call it there, like the Koekemoers and the political desperadoes.

MR SOGGOT: Mr Koekemoer is a person already been referred to in evidence, he is the man who was a mayor at one stage, or rather a city councillor, is that right, and also wrote to the press. -- I take it .. (intervenens)

Is it not the Koekemoer who is referred to in the tapes? -- Koekemoer was a store owner, I think he owned some small hardware store in Durban.

His economic status is not of importance. (30)

BY THE COURT: Well, he is identifying the man. -- Yes, and he was/...

was a regular letter writer to the newspaper, I think the Daily News if I am not mistaken and I got to know about this subsequently that he had been a town clerk in a one-horse town, Greytown, and that is all that there is to Koekemoer and I think I should say this much that Koekemoer as is seen in the Natal Mercury of Wednesday, he was reported to have sent a telegram to the Minister saying that if you do not stop this rally, myself and thousands of Whites would and now, Koekemoer would never have had thousands of Whites supporting him and these people were putting it in this way that he was (10) going to go and stop this rally by disrupting it and they described him and those thousand Whites as irate. And I phoned Koekemoer on that Tuesday, I spoke to him, I said I was from the Ilanga lasala Natali, what was all this that he was ... (intervenes)

Ilanga [?]Lás is that a newspaper for Blacks? -- Ilanga lasala Natali is a Zulu newspaper. I did not want to give him a time to say no, no, you cannot be from the Zulu as I can hear your Zulu accent or something like that. But I phoned him and he said to me: no, no, no, the newspapers were (20) distorting, they were being sensational, they are distorting what I am saying. What I meant was I am going to write a petition and circulate it and get a thousand Whites to sign it. I did not mean no violence and the newspapers are ..(inaudible) and he went on a tyrant about the newspapers. Now, I knew about all this, but this is why I talk about the Koekemoers.

BY THE COURT: If that was so, why didn't you put it in the first statement, that you phoned the man and it is not true that he made these allegations? -- Because that same afternoon the Daily News reported that Koekemoer had also said (30) these things that no, the newspapers were just talking ...

(intervenes) /...

(intervenes)

Did he say that? -- He said that I want to do this thing by way of petition and so on.

MR SOGGOT: The timing of things, when you wrote this, can you remember whether that Daily News had appeared? -- It was late in the afternoon when I wrote this.

Allright, carry on. We got as far as the word 'Koekemoer', political desperadoes. -- And the political desperadoes had decided that the ..(inaudible) .. systems are not capable of containing the sight of Black people rejoicing at the (10) achievement of their objectives. Now, so much about the rally and the reaction it received from Koekemoer.

BY THE COURT: Wait a bit now, you say they had since left. -- That is now the point that I said in the second paragraph that it is for these reasons that the reasons that I have stated above about the Koekemoer, as was known to us and known to the public, is that one reason really and that we have decided that our guests of honor excuse themselves from addressing this rally. You see, we wanted to offer an excuse why we could not produce Frelimo. (20)

It is premature because they had not yet arrived from Lourenco Marques. -- Yes, but I thought that .. (intervenes)

Arrested? -- No, no, that if they did come then because of the whole - because of the way in which our rally has been blown out of proportion, it would not be advisable for them and ..(inaudible) .. could have said no, now look what business is this thing, we do not think it is wise for us to address. So that is why in anticipation I said they must excuse themselves from addressing the rally and .. (inaudible - witness speaks very softly and indistinctly) and then you say (30) besides that we are going ahead with the rally despite the threat/...

threat for the violent irate Whites. The violent irate Whites here again refers to Koekemoer.

But at that time you knew that Koekemoer was not referring to violence, he was only referring to petition. -- Yes, I knew that but I do not know if I can put it this way: Koekemoer had been used by the newspapers. Now we were throwing the ball right back in their court, to say you say Koekemoer gave a violent mob of White people and we are going ahead, whether that mass of people you say is there or not, we are still going ahead, because we knew that that thing was not there. (10)

MR SOGGOT: No, but you are not really answering His Lordship's question, and that is why, if you knew that Koekemoer was not going to use violence or contemplating violence, why you use it in this context in relation to the excusing of your guests of honour. -- Koekemoer they said, have got a thousand Whites that are going to come and disrupt the rally. Now I know that Koekemoer has got no such thousands irate Whites who are going to come and disrupt the rally, so I say in fact this, I would, when this thing would ultimately reach fruition, would be you say there are a thousand Whites that are irate, now (20) whether these thousand Whites which I know are not there, are there or not, we go on. I do not know whether I am coming through.

BY THE COURT: This was the attitude that you were going to suggest to the people when you have the discussion. -- That is correct.

MR SOGGOT: Allright, carry on please. -- And then here that following paragraph: "We are in receipt of irrefutable information massacre our people and disrupt our rally", that is a statement that goes to support the .. (30)
(intervenes)

BY/...

BY THE COURT: I am not clear about that. What are you saying?

-- In this particular paragraph I have just read is a paragraph in support of why the - our guests of honour have excused themselves.

MR SOGGOT: How much truth was there in that proposition about the elicited information? -- Well, this was not true.

Not true. -- Yes.

Then there is another paragraph which is crossed out, but I think you had better deal with it. -- This is the following paragraph .. (intervenes) (10)

BY THE COURT: First of all, did you have an opportunity to discuss these points up to this point?-- No.

So this is just a draft? -- This is a draft.

Now we are coming to your next idea, the one that you deleted. -- The next idea.

Which you jotted down when you prepared this document. -- Yes. Now the next paragraph is "... jubilation ... day of mourning for them" and then he refers to again our guests of honour.

When you talk of this day of celebration, are you (20) referring to a future date or the 25th September? -- The 25th September.

But you see, this document was prepared, according to you, either the Monday or the Tuesday. -- It was prepared on the Tuesday.

Tuesday? -- Yes.

So we haven't reached this day of celebration yet. -- We haven't reached this day of celebration.

MR SOGGOT: Well, can you just explain then why, if this is before the event, it is couched in the present? In other (30) words, you do not say 'will', you say 'are'. Why do you use that/...

that form of English? -- Where is that?

I will be more precise.

BY THE COURT: Let us first finish the whole paragraph, then the point which Counsel is putting to you will be clearer. Allright, next paragraph? -- "We have exhausted our efforts called the South African Government."

Now this is now in contradiction to what you say that the rally is going on. Despite the threats of violent irate Whites. -- If - these are my thoughts. As they came, I put them down and at the back of my mind was the feeling that (10) we might as well just use this opportunity to call off the whole rally without taking into cognisance whether it was banned or not, just to call it off, but .. (intervenes)

No, but here you say "We have exhausted our efforts.." You see, here you talk in the present tense. -- Yes.

This is perhaps a convenient stage to take the adjournment. Anyway, you can arrange your thoughts in the meantime.

THE COURT ADJOURNS FOR TEA. THE COURT RESUMES.

JUSTICE EDMUND LINDANE MYEZA: still under oath:

FURTHER EXAMINATION BY MR SOGGOT: Will you carry on? (20)

-- Before I try to explain this document, I think I must put Your Lordship in the picture of what was happening on the Tuesday, the 24th September.

BY THE COURT: Yes? -- On that Tuesday, the 24th September, my mind was in a turmoil because of a lot of reasons in that in the newspapers that day and I think it is reflected in the telephone conversations, some of the newspapers had said the Frelimo people had arrived in South Africa and I think one of the reports said that I was having a meeting with them. Now, I did not make these reports to the press, but when I (30) looked at them, I thought well I could let them go because it would/...

would sound rather stupid for me to be jumping up and saying no, no, this is not true, this is not true, I would be saying so many things which I did not want to do, that is say a lot of things and this Koekemoer and the Minister of Justice and the newspapers, everybody was using everybody else. Koekemoer was using the Minister, the newspapers were using Koekemoer and all these things in my mind created a tumult, shall I say, and I was not to be left out in this using of other people and I think I should also mention that this document I wrote, it was in anticipation, it was written in a (10) futuristic outlook whether these people from Mozambique would come, what had happened to our people, that is the Nkomo, Harry Singh, who had gone to Mozambique; would they really arrive, when would they do that and as a result, you will find that in this statement there are a number of contradictions and at some places I see it is written in the present and at some stage it is written in the future tense and because of the situation I have explained, I really had one foot in the gutter. I was trying to clear my mind as to what would I actually do, whether to call this rally off completely and whether (20) to just call the rally off - rather, I am sorry, to give an explanation why we could not have Frelimo speakers and these are the thoughts that were in my mind on the 24th in the afternoon when I was writing this document.

MR SOGGOT: Allright I think you got as far as - do you want to add anything to the crossed out part - "At this moment of revalation"? -- No, I do not think I have anything to add. And then I go on to say: "We carry the mandate of the people and represent the legitimate aspirations of the people" and the next sentence would be "We stand dauntlessly..." ... (30)
(intervenes)

"We/...

"We stand dauntlessly, unflinching.." This is my .. --
That is what it says, it is written like that here, but I think
that the thought as it came would have been "We stand daunt-
lessly and unflinching in the midst of White hostility and their
government" and this hostility here refers to our aspirations,
the hostility to the aspirations that we represent. And then
the next paragraph, I say: "However now that Jim has decided
to ban the rally on Tuesday, a number of things stand out."
Again here it gives a glimpse into what was in my mind at the
time. The newspapers were insisting that the rally was (10)
banned, there was a banning order, the Daily News of that day
said, it carried big banners saying "students defy". Now that
meant that as I read that, these papers were insisting that
this rally is banned and I am saying it is not banned. So in
that context I say now - and here 'Jim' refers to the Minister
of - the police minister.

The Minister of Justice. -- Yes. And then I think the
rest there is after stand out(?) on the second page on the top
line: "The Black community now realises exactly where they
stand with regard to the White racist regime, the (20)
bordering free African states and themselves. The government
of South Africa .."(intervenes)

BY THE COURT: "African states are themselves aware." -- "The
African states are themselves aware. The minority government
of South Africa has in South Africa and the
Black world." This I said because now I was really talking
about this newfangled argument that we, SASO and BPC are
polarising the Black people from the White people and this
polarisation really it meant when I use it here, I meant that
it is not us, it is the government which is polarising (30)
itself by not allowing us to have our rallies when we want to
have/...

have them and I go on in that same paper, that same paragraph there, that the stooges that they send to the outside world from time to time under the ticket of the Black people has been proved for what it really is, lies. If the people cannot be allowed in their own country to say what they did not believe in, can there be any truth in what anybody sent by the very government who suppresses the people's initiative says on behalf of the people. I think that is clear. And the following paragraph says: "It is ironical that the MFM rally .." it should be the MFM rally, the refugees, (10) because I think I should explain what the MFM is. This MFM is an abbreviation of Movement for Free Mozambique. It was at the time a dissident organisation from Mozambique. I think it started - it just came up at the time when the Portuguese government said now Frelimo is going to be the government, they were handing over the government to Frelimo and this organisation, the MFM, left Mozambique, came to South Africa, to drum up support for their movement and they have some rallies - the one that I remember which was reported extensively in the newspapers was held in Johannesburg. I think (20) Rally A.1 or 1.A is a press statement that I wrote at the time with specific reference to this particular rally, MFM rallies. "It is ironical that the MFM refugees of our dignity and manhood." I think the point that I must clear there is that Black people have not at any stage taken up arms. The relating here of arms is really because the people in these - at these rallies of the MFM had been saying we are going to fight, we are picking up arms, we are going to go to Mozambique and we are going to fight there and that was really why there was that mention. And then: "The movement of the (30) people to try and wipe it out." Now, this document/...

document, as I indicated to Your Lordship, was a draft. It was really my thoughts on Tuesday afternoon, which I anticipated I would forward to the meeting or the consultation, as I say, at the beginning of the page, to the party concerned, that would be SASO, BPC and if Frelimo came, Frelimo.

MR SOGGOT: Rally A.1 have you got that? Have a look at that. When was that written? -- I take it it has the date at the back here. It was written I think it should have been - it would be on the 9th September, 1974, and I think I must add here that this particular statement had nothing to do (10) with the rallies.

I wondered, because we are dealing with the documents. Can you just tell His Lordship what this document is about? -- This document is a press statement and as it says, press statement concerning the power transition in Mozambique, that is with reference to the riots and the rallies, etc.

Now whose riots and rallies were you referring to there? -- The rallies that I have been talking about, those of the MFM.

Was this press statement ever released? -- This (20) particular press statement I wrote it and this is the draft and Norman Dubasana, that was the publications director of SASO, and I, wrote this - went through this again and we ironed it out and it was issued to the newspapers. It was typed and issued but it was not published in the newspapers.

It was not published. -- It was not published.

Have you got a copy of the final version anywhere? -- No, I do not.

You have not seen it produced in this court either? -- No.

With His Lordship's consent, I just want to ask you (30) one or two questions relating to this document. M'Lord, it is/...

is out of the chronology, but since we are dealing with his statements. In the middle of the page, you say: "What the organisers of the protest", can you just read that please? -- "What the organisers of the protest in Johannesburg ought to have rightly said when he said 'we shall die for what is ours, Mozambique is ours' would have been 'we shall die to preserve communalism, slavery and injustice, slaves in Mozambique are ours'." And in brackets there I say (Virgillo Passos) that was the man who was quoted as having said these words. (10)

Now can you please turn over the page, I do not want you to deal with everything. The paragraph starting 'It is Mozambique' would you read that please? -- "It is Mozambique that has ultimately through strain and stress managed to break the stranglehold of communalism. Frelimo has spear-headed the liberation of Mozambique. It has not only liberated Mozambique but has saved Portugal from itself. The people of Mozambique can once again breathe the air of freedom because of the .." it should be "Frelimo" there ".. the front(?) for the liberation of Mozambique." That 'French liberation (20) movement' is incorrect.

What was in your mind when you wrote that? What were you trying to convey? -- Well, I wrote this, I was talking about the topical issue at the time of Mozambique gaining independence and this statement was actually a reaction, a criticism of what these people of the MFM had been saying .. (intervenes)

Now, would you just read the next paragraph and give us your thinking behind that? -- "To us Black South Africans this is a South Africa is being shaken to the roots." Now there I am talking now about South (30) Africa and it is a viewpoint I was putting across about what the/...

the South African government was doing instead of accommodating the course of events. The course of events in this case, meaning to start making moves to a change and when I say I talk about the repressing legislations, I am really talking about all the laws or the bills that were going through parliament at that time and the budget, the defence budget which was enormous and the vague sense of security that they are trying to assure the White electorate of. The government at the time was saying we need security and we want

(intervenes)

(10)

Yes, alright and then just the last paragraph, please, would you deal with that. -- "The dignity of the Black man has been restored in Mozambique and the White people are turning out to be what they truly are, violent people."

What is the basis for saying that? -- This is a specific reference to the dissident organisations in Mozambique.

Do you mean the MFM? -- That is correct.

Just finish the paragraph. -- "The riots, stampedes, rampages, reflect their true colours." which is what has been happening in Mozambique. (20)

"They would rather die than abandon their safe and lofty position at the.."? -- "Neck of the Black man."

"Neck of the Black man"? -- Yes.

How does the neck come into the picture? What do you mean by that? -- The neck is the - I am using what we would call - I am saying here by neck I mean you know, like - how do I explain this? There used to be a phrase about I think it is General Smuts or Malan who was prime minister of South Africa at a certain time and in the Black community it was said that somebody at a meeting asked Malan or that particular prime minister - I am sorry, Malan asked his audience that (30)

"Waar/...

"Waar staan ek?" and they said "op die tafel, op die stoel" and so on, and then he said: "no, you are wrong, ek staan op die kaffer se nek."

Allright. -- That is how I see it.

On Tuesday did you find out - or let me put the question this way: when did you find out that the rally had in fact been banned? -- This day whether the rally had been banned, it was - it really came out on Wednesday, but even then ... (intervenes)

You yourself, who told you or where did you come (10) across it? And when? -- I read in the newspapers that the rally had been banned, but it was only a statement that was purportedly issued by the police minister, I think at midnight.

Saying that he had banned it. -- Saying that he had banned it, yes.

And as a result of that did you accept that there had been banning or - let me put it: when did you accept that there had in fact been a legal banning? -- On Wednesday morning.

Now can you just tell us briefly, the events and (20) discussions of relevance of Wednesday morning concerning you, leading up to the meeting at Doctors' Quarters? -- On Wednesday morning I met Mandla Khuzwayo and Mandla had been to Johannesburg and he told me .. (intervenes)

MR REES: Again, M'Lord, I object to all this hearsay evidence. Here he says Mandla had been to Johannesburg, Mandla told him this.

MR SOGGOT: If Your Lordship will bear with me a moment, I just want to reflect on whether I am going to bother about this. I think at this stage, put it on the basis that Mandla (30) gave you a report. Is that correct? -- Mandla gave me a report.

About/...

About what was happening in the Transvaal. -- In the Transvaal concerning our rally.

Yes. -- Or the rally.

Leave it at that. Anything else of interest? -- Well, we were on Wednesday morning in a state of indecision whether to go on with the rally at Curries Fountain on our contingency plan, that is BAWU taking over of their own - on their own rights and continuing with the rally or I think it was No. 1, Saths Cooper who suggested that - no, no, I think the rally has been banned at Curries Fountain in terms of the (10) banning, so we should try and get the people away to the rally at a different venue and this is when he posed the idea of holding the rally at Kajee Hall.

Well you have heard No. 1's evidence on that. Have you any comment on that? -- No, I have no comment.

You do not want to add anything to that. Did the Lourenco Marques people return, the people who had gone off on the expedition? -- Yes, they came back and they arrived.

When did they arrive? -- I think they arrived at about 11,30 .. (indistinct) came after - I am sorry, before (20) Harry Singh and accused No. 5 and when they arrived we decided to - I said let us take the - they had hired a car, so I said let us take that car back.

Well, do not worry about those technicalities, but did they give you some report about Lourenco Marques? -- They tried to give a report, but I stopped them and said let us sit down, let us get to a place where we can sit down and talk about what had happened because I think we also have a lot to tell you about what had been happening during your absence.

So then what did you decide on as to where you (30) should sit down? -- We decided to go and sit down at Dr

Mokoape's/...

Mokoape's room at the King Edward Hospital.

Was Harry Singh there when you decided that? -- Well, he said, he suggested that we go to Aubrey's room and we went there.

Where did you want to go? -- I talked with him, said, you know, I do not want - I said that we should get away from the office because the newspaper were crowding us there and go to his place and he told me that no, no, my wife is having a difficulty, a pregnancy, I suggest we go to Aubrey's room and I knew Aubrey's room was free and vacant so we went (10) there.

And so you went along there. Now I want you to describe with your own words, what happened at Doctors' Quarters and what discussions took place. M'Lord, I do not propose to simply referring to other evidence, because my submission is that this to a certain extent is a matter of such importance that I would rather Your Lordship heard the evidence out of his own mouth rather than simply by reference. Just tell us briefly please what transpired at Doctors' Quarters.

BY THE COURT: On the telephone you spoke Afrikaans. (20)

Is it easier for you to speak Afrikaans? -- No.

You prefer to speak English. -- Zulu is easier.

Is Zulu easier? -- Yes.

Would you like an interpreter? -- I think I will manage. I will indicate to Your Lordship if I find difficulty.

MR SOGGOT: May I with respect make a suggestion that if there is anything you cannot get out, perhaps with His Lordship's consent, we could get an interpreter to merely put across a particular idea which you may have difficulty in expressing.

BY THE COURT: Well, you find yourself now in No. 4's (30) room. -- Yes. When we got there, Harry Singh M.N.(?) and Aziz

gave/...

gave us a report of what had happened. I then gave them a report of what had been happening during their absence.

MR SOGGOT: When you got there was No. 4 there? -- No, he was not there.

Did he come in subsequently? -- Yes, he came in subsequently.

And by the end of the discussion, who all were there? -- It was myself, accused No. 3, accused No. 1, Harry Singh, Harran Aziz, Aubrey Mokoape and Dr Matsipa.

Dr Matsipa? -- Yes, China. (10)

BY THE COURT: No. 5 wasn't he there? -- Yes.

You did not mention him. -- I gave them a report of what had been happening and the topic was now how were we going to withdraw from holding the rally with grace and at the same time protecting the image of the organisation.

MR SOGGOT: What was Harry Singh's attitude? -- Harry Singh I got the impression that Harry Singh was being self-centred, he was being egocentric in that he was saying: I have been to Mozambique, I have spoken to Frelimo, I know what Frelimo means. He was not being constructive. So really I did not pay (20) much attention to him.

Did he say what - did he make any suggestion as to what you people should do? -- He was suggesting that we should go ahead with the rally.

And what was the response to that? If any? -- No, the response was we cannot go on with the rally.

Allright, carry on. -- So from there and when we decided that we must pull out of the rally with grace and protect the image of the organisation the next question was now how are we going to do it and a number of suggestions were made (30) but ultimately we reached an agreement that I should be the

one/...

one to go to Curries Fountain and disperse the people.

How were you going to do that? What steps were you to take? -- A number of suggestions there were also given. Those that I remember were to take the megaphone along with me so that I could stand and talk to the people through it. One other suggestion that I remember being made was to approach the commanding officer and ask for permission to address the rally or to just stand there and ask the people to disperse.

BY THE COURT: I do not follow. Just to stand there and to disperse? -- Ask the people to disperse. (10)

MR SOGGOT: What about the question of publicity for your decision? -- That was accommodated in the discussion of what we would do, what we would say at the press conference which was set down for 7 p.m. that day.

Was anyone making notes about what would be said at the press conference? -- Yes, when we were talking, we started talking about what we would say at the press conference, Aubrey Mokoape, Dr Mokoape, No. 4, took down, was taking down the points as they came from the discussion and I subsequently took over from him because I was the one that was going (20) to do the talking.

And did you write on the same piece of paper or a separate piece of paper? -- No, I wrote on a separate piece of paper. The paper he was writing on he had been writing leaving big spaces and it was almost filled up. So I started writing on a new page.

Is there anything else of importance which was decided or discussed at that meeting? -- Except for the point that would be raised at the meeting, there was not really anything and I think I should add here that China said that he (30) would be going to the Curries Fountain and he would tell us

or/...

or phone the office to tell me that if it was necessary for me to go to Curries Fountain.

What were the factors which would make it necessary? Was that discussed? -- Because we were all hoping - I should say I was, for one, hoping that no one would turn up at Curries Fountain and it would therefore save us the trouble of going to Curries Fountain, but if people were there then I was supposed to go there and China then volunteered to phone me and tell me.

How did you personally feel about this task of (10) having to go along and address the people at this banned rally? I mean, call them off, call off the rally. -- I felt it was my duty to go and disperse the rally. Then I felt that it would give us the opportunity of not losing on the initiative.

Can you remember what you people discussed about the press conference and what would be said there? -- We discussed a number of points, but those that I remember were what we were going to tell the press, that evening, would be that ¹we were pulling out of the rally because it is banned; that ²we would criticise the newspapers for the way they publised - (20) they had gone about with their reporting; ³we would criticise the Minister of Justice for the way in which he had handled the publicity - rather the banning and the whole shabby way in which he had handled it.

The whole what? I did not hear that? -- Shabby.

BY THE COURT: Shabby.

MR SOGGOT: Shabby. -- Shabby.

What do you mean by saying that he handled this in a shabby way? -- Because the Minister of Justice had had all the opportunity to ban the rally if he so desired, but he (30) only banned it on Wednesday and the people, I felt, were not going/...

going to be able to get to know about this banning on Wednesday at such a late date and this is the thing that I felt was .. (intervenes)

You objected to that. Any other point? -- I do not think so.

BY THE COURT: Where did you get the megaphone from that you used? -- We had the megaphone.

Where? -- I think Harry Singh had hired the megaphone on the Saturday before he left and it had been with us all the time. (10)

For the purposes of the rally? -- Yes, we had used it for advertising.

MR SOGGOT: Was it functioning or squeeking? -- I guess all megaphones squeek.

In fact when you went - I am jumping in time now - when you went to the Curries Fountain and went to the people eventually, did you have the megaphone with you? -- No, I did not have it.

Why not? -- I thought that because when accused No. 3 and Harry Singh told me the people were already there and the (20) police were there, I thought that if I come toting a megaphone along, it would be interpreted in a bad way for me.

Interpreted by who and in what bad way? -- By the police, seeing now there he is coming with a megaphone to come and address the rally and things like that.

Did - to come back to Reverend Mayathula, at that stage did you know whether he was going to come along or not? -- I did not know.

Did you then return to the SASO office after that? -- After the D.Q. meeting I returned to the SASO office, yes.(30)

Now, do not know if there is anything particularly contentious/...

contentious about this next series of events. Just tell us what happened very briefly, what happened until you went to Curries Fountain; also the arrival of Mayathula and whether there was bluffing. -- Mayathula arrived and when he arrived, he took off with me, he was complaining that I had been publicising the rally on behalf of BPC and that I had no right to do so, but we explained to him that accused No. 5 had not been present so I had to be the one to do the publicity. So he understood all that.

During the course of that afternoon, did you receive (10) a call from a person called Subri? -- Yes, that was before the Reverend Mayathula arrived, I received a call from Subri, a reporter of the Daily News.

A reporter of the Daily News. And he gave you a report relating to an opinion of Mr Van Niekerk .. -- .. (intervenes - both speaking simultaneously) That is correct.

That also related to the rally. -- Yes.

Was there any question of bluffing or deceiving Reverend Mayathula? -- No, no, there was no such question.

Was there an occasion when he went out of the room? (20) -- The Reverend Mayathula was with me in the office all the time, he never left the office.

And then, to cut it short, you went to Curries Fountain. -- I went to Curries Fountain.

With whom and in whose car? -- We went in Harry Singh's car. The people present there were Harry Singh, accused No. 3, No. 5, myself.

Was Mayathula invited to come or did he just come along or what? -- He just came along.

BY THE COURT: And Mayathula? -- And Mayathula, yes. (30)

MR SOGGOT: And you then went to Curries Fountain. -- We went to/...

to Curries Fountain.

And you stopped, I think this was - we have heard the evidence and I do not think .. (inaudible - background noise) .. or not contentious, you stopped near the Scala Cinema. Is that right? -- Yes.

That is about a quarter of a mile, is it, from the Curries Fountain gates? -- I do not know about the distance, but I .. (intervenes)

Well, I do not think it matters. And you got out of the car with No. 3. Is that right? -- Yes, I got out of the (10) car with No. 3.

And you went to the Curries Fountain. -- But No. 3 I told him to remain behind because that was one of the things that had been said at the D.Q. that I should be the one, the only one

And how did you approach the Curries Fountain gathering? What route? Did you go across the fields or along Winterton Walk? -- I approached Curries Fountain up Winterton Walk.

Going from the bus rank or..? -- From the bus rank.

That is in a westerly direction. -- Yes.

Now would you please from this point tell us step (20) by step what you remember happened, who you met, what was going on and what transpired? -- I walked up Winterton Walk and I arrived at Curries Fountain and I saw the people at Curries Fountain. They were singing and they were making whoopee and it was a jolly .. (intervenes)

What do you mean by 'making whoopee'? Please be a bit more accurate. -- They were singing, it was like a wedding. And I came .. (intervenes)

BY THE COURT: What do they do at a wedding other than sing?

-- I beg your pardon? (30)

What do they do at a wedding other than sing? -- They danced/...

danced, they - oh, they do so many things.

Well, tell us. -- This is what the atmosphere I found at Curries Fountain, the people were dancing, some were hugging each other, they were doing - it was a jolly affair and as I approached the crowd - I think I should just mention that I did not see any dogs as I was going up Winterton Walk anywhere next to Curries Fountain. I got into the crowd and the people walked towards me. The people who walked towards me were Colin Jeffries, Norman Dubasana and some others who I knew, but whose names I cannot recall. (10)

MR SOGGOT: Mrs Cooper, did you see her at that stage? Can you remember? -- I saw her just in the crowd.

In the crowd? -- Yes.

These people came towards you? -- Yes.

Yes, and then? -- A little bit west of the gate.

I am sorry, a little bit to the west of? -- Of the gate.

Of the gate. -- Of the big gate, I think we will call it gate A.

When you say a little to the west, do you mean in directional terms or in distance? -- What I mean is the (20) crowd was more or less on the apron, that is the pavement that goes from the gate and the turnstiles right up to the road and we were almost either on the road, I could not say specifically we were on the road or on the pavement, but it was tarmac, we were there and a little bit to the west of the gate.

Allright so they came up to you and then what happened? -- They came up to me and the other people that were coming also, they wanted to see what is going to happen now and I remember Colin Jeffries said to me that the order to disperse (30) had just been given. I asked him how long ago. He gave me the impression/...

impression that it had been given a few moments ago and I asked how long we have, that is how long did they give us to disperse and he said well, he could not hear how long the police had said.

The announcement. -- The announcement and the others, Norman also said he had not heard. So I told them let us get the people away from here, let us move off and then I started a song, Shosholoza. And we started moving away.

BY THE COURT: You started a song, you say? -- Yes.

What does the song mean? Shosholoza. -- Shosholoza (10) I will say it means cruise along.

MR SOGGOT: I think Bawa mentioned the song, made mention of the song as well. Is that right? -- I do not think Bawa mentioned it.

It means cruise along? -- Yes.

What do the words say apart from cruise along? -- It is a work song.

A chant? -- Yes, a chant. The people sing it when they are working. We used to sing it when we were at school, driving along say to picnics in buses. It has got rhythm. (20) That is one thing about it.

So you started singing that.

BY THE COURT: What do the words say? -- Shosholoza.

Well, just give me the chant, although you need not sing it, give me the words. -- It is Shosholoza .. (witness gives the words in Zulu, with English translations in between, but speaks very softly) .. the train is going to Rhodesia .. (Zulu words again) .. you are running away .. (Zulu words again) .. you are shy .. (Zulu words again) .. the train is going to Rhodesia and it is just on those lines. When you sing (30) it there is one person who leads and I was leading at the
time/...

time and the people were giving the background and we sang the song.

MR SOGGOT: Just to situate the song, it is a Zulu song or a political song or a workers' song or what?

BY THE COURT: He said it is a working chant.

MR SOGGOT: A working chant. -- Yes.

So you started singing it. -- Started singing.

Any shouts of power at that stage? -- I should mention that before I started singing, I shouted 'power' and the people responded. (10)

When you shouted 'power' in what direction were you facing? Using for the moment the national cardinal point of the bus rank being east and the opposite west. -- I cannot remember specifically, but I would say that I was facing down the road, because when they came to me we had a small talk, as it were.

While you are talking you are holding your hands out, semi-outstretched like that. -- I am sorry, I was holding Colin Jeffries.

BY THE COURT: You went into a huddle. -- A hug, yes. (20)

Nog a hug, a huddle.

MR SOGGOT: Yes, so you went into this huddle with them or you held them. -- Yes.

And what direction were you facing then? Can you tell us? -- I was facing more or less in the direction of the bus rank.

And when you started Shosholoza, which way were you? -- I shouted 'power', I turned to face the people when I shouted 'power' and the people responded, I said Shosholoza and I pointed down the road, down Winterton Walk.

BY THE COURT: Where were you taking them? -- I was taking (30) them away from the vicinity of Curries Fountain.

But/...

But whereto? -- Just to get them away from the the place which the police were in fact, to get away. It would have been much easier to tell them now it is over now, go home.

MR SOGGOT: Did you have any spot in mind where you would tell them to go home or what? -- Yes, along Winterton Walk.

Along Winterton Walk? -- Yes. As long as - what I think I should say was to get the people - to get away from the place where the police had said they must get away from.

Allright, so you did that and you made a gesture in the direction of the east and then what happened? (10)

BY THE COURT: If the police told them to disperse, why do you want to lead them to another place? -- That was the only way they could go.

Some could have gone up the road and others could have gone down the road, the others could have gone across the fields to the school. -- Going across the field to the school you reach a fence, you cannot go any further and if you go across up the embankment across the street, there is a small alley, very small, it can take only one person at a time, in that direction. I do not think anybody would care to (20) move up there and up the road it is - nobody really - I do not know who stays there but nobody really comes from that place at least no greater majority comes from that place and down Winterton Walk towards the bus rank is where the bus rank is, in fact it is not the only bus rank around there, it is a huge bus rank and the other bus ranks are further down and away from that particular bus rank. So I was going with the people in order to just to be able to at a certain distance tell them this rally, this meeting is then - we cannot hold a meeting, let us go home. (30)

MR SOGGOT: Did you contemplate the possibility of saying that
in/...

in situ, that is in front of the Curries Fountain gate? -- No.

Why not? -- Because as I have said, I wanted us to get away from Curries Fountain.

Now, to return to my question, you then made a gesture in the direction of the east, you started to sing a song; then what was the response? Tell us in your own words what happened. -- The people started singing along with me and we moved down the road and as we were moving along, the people, the singing, was interrupted, people started talking, started pushing, the people in front started coming back towards (10) us and we bumped into them and some moved out, the direction was no longer down the road, but the people turned now and started moving along, in a diagonal fashion towards the embankment.

BY THE COURT: How far had you walked from the place where you spoke to Colin Jeffries when this happened? Just point out more or less. -- I think we had walked from here to about where that gentleman is sitting with the lumber-jacket.

Near the door? -- Yes, near the door, the second row.

15 paces, 12 paces. -- About that. And then the (20) people in front separated, there was an opening and when I looked through the opening I saw Captain Welman and I saw policemen with dogs. So I concluded that this is the reason why there has been a bumping, the people we had bumped on the other people and the people had changed the direction. So when I saw this, I went up to Captain Welman. I do not remember the precise words I said, but I said something like: you cannot stop us from going away. He just looked. I went past him and I was no longer now going down the road, I was going diagonally across the road. (30)

In the direction of Curries Fountain? -- Now in the direction/...

direction of the embankment.

The opposite direction. -- The opposite direction. And when I reached the embankment, there were dogs behind that had charged. I ran up the embankment.. (intervenes)

Charging you? -- The people and the people were scuttling up the embankment. I ran on to the field.. (intervenes)

MR SOGGOT: .. (inaudible)

LAUGHTER

And then you went to the car. -- I dashed right back to the car. (10)

Now before we deal with what happened at the car.

BY THE COURT: Where was No. 3 when you arrived at the car? -- They were all there.

Yes, was he sitting in the car, No. 3? -- I cannot remember, but the person I remember was the Reverend Mayathula. I think Your Lordship should get a picture of the Reverend Mayathula. The Reverend Mayathula is an old man, not old, but he is grown-up. I think he is about 48 - 50 somewhere there and he has got a beard and he has got big eyes and when he speaks, you cannot afford but not hear what he is saying. (20) Like for instance when I got back to the car. He said: Muntu, young man, what is happening. I said the dogs are chasing us and he got back .. (indistinct - speaking very softly) That is about the only man I remember when I came to the car, because I was still thinking whether the dogs are not right here behind me.

MR SOGGOT: Well, Castro did not turn to go back, but before we get onto that return trip, one or two points about the events of the rally. The suggestion made in the State evidence is that you were part of a ..(?) formation which went (30) in the direction of the gates. What do you say about that? --

Well/...

Well, that did not happen.

That did not happen? -- It did not happen.

I will show you the photographs in due course. One or two points. When you first arrived there, did you see dogs at all? -- No, I did not see.

When did you see dogs for the first time? -- I saw dogs for the first time at the time that I have just described, when the flow of the people was interrupted.

Then you left and you returned to the offices. Is that correct? -- That is correct. (10)

And what happened thereafter? Did you have a press conference? No, I think, I am sorry, I have taken you out of the chronology. You went to the SASO offices. Is that correct? -- Yes.

And were there newspaper reporters there? -- When we came back, as we drove in there was nobody around.

And then what happened? Did you people go up to the offices? -- We went up to the offices, I went up to my office.

Who was with you? -- There was the Reverend Mayathula and accused No. 3, but later on Mabandla also came. (20)

And at a subsequent stage did the police arrive and detain you? -- Yes, they subsequently arrived there.

And did they also seize certain documents? -- I was there from the time they arrived until .. (intervenes)

They searched the place and seized a number of documents. Is that right? -- They took a number of documents.

There was some evidence I wanted to deal with namely you had a document in front of you and I think Captain Du Toit wanted to take it and you stopped him. -- Yes.

Tell us what happened. -- We were sitting around (30) there and we were talking. There was a knock, a police knock on/...

Well, that did not happen.

That did not happen? -- It did not happen.

I will show you the photographs in due course. One or two points. When you first arrived there, did you see dogs at all? -- No, I did not see.

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There was some evidence I wanted to deal with namely you had a document in front of you and I think Captain Du Toit wanted to take it and you stopped him. -- Yes.

Tell us what happened. -- We were sitting around (30) there and we were talking. There was a knock, a police knock on/...

on the door and they said 'Police'. Castro was sitting next to the door. I asked him to open the door and he opened the door. The police marched in. I remember there was Captain Du Toit, there was Major Stadler, there was Captain Welman, there was Taylor, Warrant Officer Taylor, there was Warrant Officer De Wet.. (intervenes)

I do not think you need worry about identity of the squad. Just tell us about taking the documents. Then Mr Rees can ask you about all these details if he wants to, but I do not. -- When Captain Du Toit walked in, he just (10) grabbed the document in front of me.

Which one is that now? -- The document in front of me at the time was this one, Rally A.2.

Rally A.2, that is the document you have referred to. -- I grabbed his hand and I told him, I asked him why is he taking this document because he cannot just come barging in and take this document in front of me, any document that is in front of me and it was then that Major Stadler told me that he was placing me under arrest. I asked him what for. He said under the Riotous Assemblies Act. I said what (20) Riotous Assemblies Act, what have I done. He said they will explain that later and he told me they were going to search the offices and they continued searching the offices.

Then they took the document. -- They took the document.

As well as other documents. And you have been in detention since then. -- Ever since, yes.

Now, M'Lord, I think that I propose to go on to the tapes now. Have you got a copy of the tapes there? I think that these tapes, with His Lordship's consent, should be dealt with chronologically and it seems that page 18 would be the (30) first conversation involving you. Now, can you briefly sum up/...

up what is being said in this conversation? I do not think it warrants being read. This is first of all on Monday. Is that right? -- Yes.

Morning or afternoon? -- In the morning.

And you had done the phoning? -- Yes, I phoned.

Allright, just give us a concise resumé. -- Here I phoned Bokwe Mafuna to find out whether he had been able to get in touch with Harry Singh, Harran Aziz and accused No. 5, for the purpose of giving them contacts for their trip to Mozambique. On page 19 he says - I say: (10)

"Have you contacted them or have they contacted you?"

That is with reference to Harry Singh, No. 5 and Aziz and he says:

"They phoned me yesterday"

and then he talks about they gave him their number and then he is telling me that he has phoned Swaziland and he found they had not received the message and then he says he is just sort of keeping his fingers crossed. And then on page 20 he says: (20)

"I think they will travel well and I doubt whether they will come across any problems. They do not have to look for it, it is all over."

There he is actually talking about, it is all over, meaning Frelimo.

BY THE COURT: It is all over, Frelimo? -- Frelimo, it is the news - it is easy for them to get the news of where to get Frelimo.

Does that mean all the trouble is over there? -- Yes, (30) all the trouble is over there and he goes on and says:

"They/...

"They are no longer hiding themselves."

That is Frelimo like the - because they were guerilla fighters and they were hiding, now they are no longer hiding and then on the next page he says, on page 21, he says:

"I don't think those people will refuse."

That is he is saying: I do not think Frelimo will refuse to accommodate our request and he says:

"They are still beginning to establish themselves in their own country."

And I say: (10)

"Ja"

and he says:

"Unless they say we are too busy with our own important problems, but don't know."

I say:

"Ja this is obvious."

He indicates that I really did not think that Frelimo would come and then he says:

"Although it may not succeed in the people's thinking." (20)

I say:

"Ja."

And he says:

"This is an important fact."

Now, we say that although I do not - it will not succeed in the people's thinking, meaning the getting of Frelimo, their physical availability for the rally and I say:

"Ja perhaps the message is important."

The message of solidarity that we are getting across was important. (30)

MR/...

MR SOGGOT: Whose message would it be?

MR REES: The witness has already answered this question.

-- And then we talk there about, I start off by saying, on page 22:

"They are still doubting what to do,
they are actually not sure what to do."

He says:

"Huh".

"They are hesitating they are not sure
what to do."

(10)

And here I am talking about they are not sure what to do, I am talking about the - what had been in the newspapers that Monday, I am referring here to the newspapers and the government and this .. (intervenes)

MR SOGGOT: What do you mean the newspapers and the government?

Just be a little more precise there. -- You see, this rally we had called, the newspapers on Monday were giving a lot of - they were commenting more than they were reporting news and they were saying this rally is like this, is like that and there had been nothing forthcoming from the government (20) and this is what I am referring to.

Yes. -- And then he says on page 22:

"How have our Whites reacted?"

I say:

"No, no, they are panicking, they are panicking."

He says:

"Are they furious?"

I say:

"They are panicking."

(30)

The word I used there is a Zulu word and it goes - it means
they/...

they are at their wits' end, it is tatazela, and panicking in that sense.

What did you mean by that? What was in your mind when you said they are at their wits' end? -- I meant we are a Black organisation calling a rally in support on solidarity with Frelimo and what we were doing was representing what the Black people thought and now the Whites that he is asking about were really not - they did not know what to say about this, that is what I mean, they did not know what to say about this. (10)

THE COURT ADJOURNS FOR LUNCH.

COURT RESUMES ON 4th JUNE 1976 AT 2P.M.

JUSTICE EDMUNC LINDANE MYEZA, STILL UNDER OATH:

EXAMINATION BY MR. SOGGOT CONTINUED: Mr. Myeza, we got as far as page 22, is there anything else in your resumé that you want to add to this dialogue? --- No, except that on page 19 Bokwe asks: "Do you think they are going to agree to it?" I say: "Eh?" He says: "Do you think they are going to allow it?" I say: "We want them to refuse" and then he laughed, I say: "That is the real truth", and then we continue. 10

And what was that conversation about? --- Here he is saying: do you think they are going to allow it and I say..(Mr. Soggot intervenes)

Do you mean the rally? --- The rally.

Well be a little more explicit, and who is "they", the government? --- Yes, the government, then I say: we want them to refuse, it seems that I meant: "they won't refuse", and then he laughs as if to say: you are too sure. I say: "that is the real truth". I think that is all.

On the same page, on line 5, Bokwe says: "I heard that you had phoned me and I was out" --- Yes. 20

What does that refer to? --- I had phoned him on - if I am not mistaken - Sunday for the same purpose.

COURT: On page 23, what Constitution are you referring to, in the middle of the page? --- Your Lordship, I have been trying to recall what we were discussing when I talked about the Constitution, but I ..(Court intervenes)

Wasn't this the SASO Constitution, was this Bokwe a SASO man? --- I wouldn't say that, because I really do not think he was a SASO man, what I do know was that at 30

some / ...

some stage he was a field worker for the Black Workers' project of SASO.

Now just carry on: "But we don't care about it as work is going on you see"? --- Yes, that is him talking now.

But now what work is going on? --- That is, as I say I have been trying to recall - the line was bad, but on what he is talking about at a later conversation, I think he phoned again on Tuesday to find out whether the people who had gone to Mozambique had come back, unfortunately the telephone conversation is not transcribed, he talked to Accused No.3, and they were talking about budget proposals. Budget proposals, what we do with them is sometimes the sponsors send representatives and they only end up in Botswana, so we get some responsible people to forward our budget proposals to them, so that they can see whether they can give us any money or not.

Was he then collecting money for you people in Botswana? --- No, every time - at the time I was in the office he was not doing that, but I had been thinking of doing that, and I think, Your Lordship, he was talking about this, because he had been asked previously to do that I think by the secretary general before me, who had been Ben Langa.

Now look at the next paragraph: "There are some things that you should take care of so that we don't waste too much money in doing so, you must travel by train or car, but we must try by all means because there is somebody" - and then there is an interruption: "There are / ...

are some things that we need from there" - now what things? --- Like I was saying, Your Lordship, I think he was referring to budget proposals, but as I say I have been trying to recall actually what he was trying to talk about.

Why, if you are SASO and he is BCP, that is the community project, was he a field worker in the community project? --- He was at one stage with the Black workers' project, and then he ceased, but I am not sure of the facts. 10

But now why should he be concerned, he in Botswana, be concerned about you people wasting money about probably using air tickets instead of travelling by train or car? --- Because of the desire by him to save money.

But why should he, sitting in Botswana, not being a member of your movement, be worried about your wasting the money of your movement? --- I think he was sympathising, he sympathised with what we were doing in the country, although he was in Botswana. 20

But he wasn't a refugee in Botswana? --- He was a refugee.

But what could he be doing in this country if he is a refugee in Botswana? --- Well he was in Botswana but he sympathised with what we were doing.

"We" you mean you? --- Yes, I mean us.

MR. SOGGOT: On the top of that page there is the phrase: he changes the subject and he says: "Instead of doing the most important job you are doing small things" and you say: "Ja", can you tell us what that is about? --- I got the 30

impression / ...

MYEZA

impression, I understood him here to be saying we are just taking, we are organising small things like the rally instead of trying to consolidate our branches, because as Your Lordship will have read from the documents, SASO was recuperating from the bannings of its leadership, and the branches were not yet fully on their feet, and this was something that he ..(Court intervenes)

COURT: But that would be inconsistent with what appears just a few lines before, you see here he is congratulating you on what the papers had to say about these rallies, he says - first of all you say: "It has filled the whole page, there is not a single paper that has not published it" then he says: "Hey, maar you are a stout man", he is probably praising you, you are a stout man? --- No, Your Lordship, he says ..(Court intervenes) 10

Oh, no, "jy is stout, man" --- Yes, stout.

Naughty? --- Yes.

MR. SOGGOT: Now, Mr. Myeza, about this page and His Lordship's questions, are you merely speculating on what you think was talked about, or can you remember? --- Your Lordship, I think I am speculating. 20

Well, look, may I make this suggestion, and that is would you try and think about this and if you can be of assistance subsequently - I must confess, M'lord, I have never directed any attention to this page at all. Would you please turn to page 28. Here is a conversation with a person called Aubrey, which Aubrey is that? --- This is Aubrey Gomete.

And when you spoke to him did you realise which Aubrey / ... 30

Aubrey it was? --- No, I didn't realise that this is Aubrey Gomete, I took for granted that it was Accused No.4.

And when did you realise it was not No.4? --- I realised when he said that he is stuck in Hammersdale.

All right, can you just briefly deal with this conversation please? Start off about six lines down: "Congratulations on embarrassing the system" says Aubrey? --- He says: "Congratulations for embarrassing the system" I say: "Eh?" He says: "Congratulations for embarrassing the system", I laugh andINAUDIBLE... I say: "Ja, now we should know where stands now".

Right, now although you don't say very much there except laughs and "Jas", can you tell us what you understood that all to be about? --- I understood him to be saying, to have read the newspaper reports that morning, and he was saying, he was talking about the way we had replied to the reported banning, and he was saying now: "No, no, I think you handled it quite well by showing that this thing is not banned", that is how I understood it.

And did you consider then that the system was embarrassed by that? --- I think it was his way of saying - it was his way of saying - PAUSE - "well done", in short that is what I would say.

Just read on please? --- And then there is "Ja, ja, ja, and he says: "Ja, ja, a very grand thing which you did" and I say: "Ja, but this other thing,", he says: "Ja, ja", I say: "Look, look this man, if you read through everything, and you will read that I also contacted the people who did get in contact with you this morning and in the evening" - there / ...

there Your Lordship I am referring to my conversation, the conversation I had had with Nat Sarachi about the Minister of Justice, and also the conversation I had had with G.R. Naidoo about the same thing, both G.R. Naidoo and Nat Sarachi had told me that their respective offices had been in touch with the office of the Minister of Justice, and the Minister of Justice.

COURT: What time was this conversation more or less?

--- I think it was late morning.

Who is this "man"? --- It is just the way I say 10
look this man, I am not referring to any man in particular.

Look this man - you are addressing him? --- Yes, I
am addressing him. "Look this man".

The comma should be after "this" then: "Look this,
man"? --- Yes.

MR. SOGGOT: And then you talk about the emotional
disturbance from the White, Koekemoer? --- Yes I talk about
that, and then I read to him the excerpt from the Natal
Mercury.

And what you say is: "It is not banned"? --- Yes. 20

Just read on please from there? --- Then I say: "I
have got the ..(Mr. Soggot intervenes)

Well don't worry about the Riotous Assemblies' Act,
and then you repeat "It is not banned"? --- Yes.

And then you say: "Right - can you read that please?
--- I say: "Right, what we are going to do, we are going
to push it until the very last moment, nè, we want to
crack them completely". What I am saying here, Your Lordship,
is that we are going ahead with this rally, despite the
threat by these people that the rally is banned. And then 30

we / ...

we are going to push it until the last moment when it is banned, until it is not banned, we are going to go ahead. (sic)

And "we want to crack them completely"? --- It is still in the same context.

Yes, but what do you mean by you want to crack them completely? --- We want them to come out, we want the banning order to come, and the newspapers must report that this rally has just been banned, it was not banned when they said it was banned. So in fact they would be admitting that they had told lies before. 10

So who is "them"? --- Them here "we want to crack them completely" refers to the Press.

COURT: Not the authorities? --- No, it refers to the Press, Your Lordship, we want to push it to the last moment, we want to crack them completely.

What has the Press got to do with it because you are dealing with the question that this is a banned rally which was not properly banned according to you, it was not advertised in the Government Gazette? --- Yes, Your Lordship but the newspapers say it is banned, and then this cracking them completely, maybe if we say we want to crack them.

Now where does the last moment come into it? --- The last moment comes in where the rally - let me put it this way - we are going to push it until the very last moment.

What will happen at the last moment? --- The last moment is when they ban the rally, that would be the last moment.

So why was the newspapers to crack, because that 30

was / ...

was exactly what the newspapers were reporting? --- But Your Lordship, the newspapers were saying it is banned, and we knew it was not banned, so - PAUSE -

So it will show up that it was not real banned, when the newspapers said it was? --- When the newspapers said it was banned, and this is how I meant to crack them, you know I used the word crack but that is what I meant.

MR. SOGGOT: And you say: "The rally is being held tomorrow"?

--- Yes.

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Was that your intention then? --- Yes.

All right. Unless there is anything else you want to add can we pass onto the next conversation, and this would be on page 31.

COURT: Now when did you find out that this man was not No.4 Accused? --- I found out, Your Lordship, as I said, when he said at the bottom of page 29: "Thanks a lot, I will try my hardest to be there because I am still stuck up here at Hammersdale", now I knew the Aubrey who was in Hammersdale was the Aubrey Gomete, and he was teaching there. 2

And what did he have to do with the rally? --- Oh, he had nothing - I think he was just phoning out of goodwill.

Well it could definitely not be No.4 because on that date, on the 24th, No.4/^{knew}what the position was of the rally, that is the Tuesday? --- I think he knew what the position was.

COURT: M'lord, I think the tape indicates it is not No.4 in fact from the point of view of voice identification. I never understood my learned friend to challenge that

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evidence / ...

evidence of Accused No.4.

MR. REES: M'lord, my learned friend never challenged Mr. de Wet's evidence that it was No.4's voice.

MR. SOGGOT: M'lord, as far as I understood it, the tape was put in as a tape involving Aubrey. If Mr. de Wet had said that, then there has been an oversight on the part of the Defence, but my submission is that Mr. de Wet did not say that. But the tapes are there, M'lord.

COURT: But it is purely irrelevant, it only concerns No.2. 10

MR. SOGGOT: That is true, M'lord. Please turn to page 31, Mr. Myeza - except perhaps, M'lord, that if it were No.4, perhaps he should explain what he was talking about, but my submission is it is not No.4, and if my learned friend wants to make the submission that it is, then I think he and I should listen to the tapes with the Accused, and not spend time arguing in front of Your Lordship. Page 31, you have got that, Mr. Myeza? --- Yes.

That is also on Tuesday, is that right? --- Yes.

What time is this conversation? --- Late morning, 20
I would put it at late morning.

And it is someone from the ..(Court intervenes)

COURT: By the way, why do you say late morning, do you remember it, or do you just say late morning? --- This is the conversation between Bridge and I, and Your Lordship, if I may answer your question this way. There were many conversations that were taking place at that time, so what I really do except where I remember specifically, is that I look at the content to determine, to assist myself, when it could have been. 30

Now / ...

MYEZA

Now who is this person that you spoke to? --- A reporter from Post.

What is his name? --- Bridge.

Bridge? --- That is correct.

MR. SOGGOT: Well I don't think that page 1 concerns us there, and then you give him your Press statement: "We are not aware of any banning"? --- Yes.

"We couldn't care less if it is banned and we are going on", you give that to him, and on page 33: "people's will shall not be suppressed by foreign settler regime" 10 and then on page 34 he says to you about six lines down: "This Curries Fountain .." - can you just read this conversation please, the balance, and tell us what it is all about? --- He says: "Look..where.. this Curries Fountain, you know, I say: "Curries Fountain, everything as before". He says: "Yea, but you know .. mmm.. I spoke to the chaps at Curries and they say if it is banned then you can't go on there", and then I say: "Look, I am telling you everything is going ahead as before".

As planned? --- I am sorry "as planned". And here 20 I say this because I didn't want to enter into a debate with him about whether this thing was banned or wasn't banned, and I wasn't really prepared to answer his questions.

Then I think we can deal with page 35 where you talk to Gerald Phokojoe.

COURT: On page 32, were you actually discussing the rallies with him and the banning? --- Yes, well he wanted a - PAUSE -

Well he wanted your position? --- A Press statement.30

He / ...

MYEZA

He wanted to know with whom he was talking, I mean he can't just say that he spoke to somebody, he wants to know whether he spoke to a man of authority, so he spoke to the secretary-general? --- Yes.

He asked you about the banning: "We are not aware of any banning. We couldn't care less if it is banned"? --- No, Your Lordship, that is the Press statement that we have issued.

I am referring to the telephone conversation with this man from the Post? --- Yes, and then when he says: "Who am I speaking to, can I quote you" and then I give him, I read to him. 10

MR. SOGGOT: The page starts off, M'lord, with his saying it is a Press statement, and then when he says: "We are not aware of any banning", that is the beginning of his dictation.

COURT: Oh, I see, he is reading it out.

MR. SOGGOT: Who by the way concocted that statement, Mr. Myeza, that you are not aware of any banning? --- No.1 and I. 20

Then you have dealt with page 34, can you go onto page 35 please - now can you tell us when this conversation took place approximately? Some time in the afternoon it would appear? --- This conversation, I think it took place at about lunchtime, because Gerald says at page 37: "You see the very thing that we are going to meet them over lunch here" when I ask him ...INAUDIBLE... so I say it is at about lunchtime.

And Gerald Phokojoe, is he the SASO regional secretary? --- That is right. 30

In / ...

MYEZA

He wanted to know with whom he was talking, I mean he can't just say that he spoke to somebody, he wants to know whether he spoke to a man of authority, so he spoke to the secretary-general? --- Yes.

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And Gerald Phokojoe, is he the SASO regional secretary? --- That is right. 30

In / ...

In the Transvaal? --- Yes.

And who phoned who? --- I phoned him.

Why? --- I phoned him to give him the Press statement that we had issued, so that he can be in a position to know what is happening.

Now, after you dictated to him, you say: "Could you ask Harry Mashabela to phone me"? --- Yes.

Now could you read and explain from there please, who is Harry Mashabela? --- Harry Mashabela is a reporter for The Star.

10

What did you want with him? --- I wanted him to handle the Press coverage regarding these rallies for The Star. He says: "Muntu, what is our wisdom of doing this" I say: "What, what?", he says: "What is the wisdom really behind this", I say: "This thing is not banned". He says: "It is not banned?", I say: "Ja".

Now one moment, when he says to you "what is our wisdom of doing this", what does this in your mind refer to? --- He is referring to the statement that I have just given him.

20

Yes, all right, carry on? --- And I say: "This thing is not banned". "What has happened", I say: "Let me read the correct thing" - that is me saying that, and then he says: "Right". I read what Kruger says there, and on the following page, 36, that paragraph there, I say: "They say that if this thing is to be banned and this appears also on the Act, is that should the Minister decide for the reasons of public peace, if there is any peace at all" - that is just a quip I added there - "decide to call off such a meeting or ban it, they shall do so by way of a

30

Proclamation / ...

Proclamation, or failing which he shall announce at the place where it shall be held. Now, the rationale behind this, this thing is not banned. We stop and we say we never banned it, we only assured the people of all the necessary precautions, and he says: "Oh, it is not banned", and I say: "It is not banned".

Now when you say: "Now the rationale behind this" what does "this" mean? --- The rationale behind this, now I am answering his question of what is the wisdom of our doing this.

10

You say this then refers to your Press statement? --- To my Press statement.

All right. Then you carry on, please go on, you again say it is not banned ..(Court intervenes)

COURT: Before you go on, what is the basis for your quip that you made? --- Your Lordship, there is no basis, I was just throwing it in.

MR. SOGGOT: No but what did you mean by your quip? --- I was just trying to be interesting.

Yes, but just try and explain your thinking, you say "public peace, if there is any peace at all", well if it is a quip there is something in your mind, try and tell us what it was? --- PAUSE - I can't say it refers to any specific thing.

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COURT: Well did you think there wasn't any peace?

--- Because of this whole thing, Your Lordship, they say the rally is not banned and so on, in a very small way I could say maybe that no peace at all refers to that.

MR. SOGGOT: Well is that what you say or is that a speculation of yours? --- Oh, this is speculation.

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All / ...

All right, carry on please? --- And then I say: "Ja, it is not banned. Did you get in touch with the people necessary". I say: "Eh?" - "Did you get all those people there. Is that what the legal advisers say". I say: "Ja, I am sitting with them right now". Your Lordship, there I was misinforming him there, I wasn't sitting with any legal advisers, but I was - I had satisfied myself about this, and as Your Lordship has heard I did go to the advocate.

You had been to the advocate at that stage? --- No, 10 I was still - at that stage I was still going to go to them. This was at lunchtime.

Well make yourself clear, at this stage had you been to the advocate yet? --- No.

And had you had any legal advice yet? --- No.

But as indicated it was your view that it had not been banned? --- Yes, it hadn't been banned.

Well why did you say to him that you are sitting there with legal advisers? --- Like I say I was misinforming him. 20

But why, just try and explain? --- I was trying to convince him, Your Lordship, Gerald Phokojoe is an argumentative fellow, he might start arguing about it, so I was really trying to put more force behind what I was saying, to sound convincing.

Then: "How is Dr. Lingo" - who is that? --- He is Delingo, I didn't know this name at the time, when he says the D'nko man he was referring to No.5.

COURT: He refers to No.5 as Dr. Lingo? --- He thought Dr. Lingo is D'nko.(?) 30

Mr. / ...

MYEZA

MR. SOGGOT: How would you spell that? -- D'nko is -
PAUSE - D'nko it is all in this - PAUSE -

COURT: D'nko? Why not D'nkomo? --- That is it, he
was general D'nkomo, now he is saying D'nko.

So he didn't say Dr. Lingo, he probably said D'nko?
--- He said D'nko. And then I say: "I can't tell you
where he is" further down the line.

MR. SOGGOT: And then you say: "Ask Harry or Nat to phone
me" those were the reporters? --- Yes.

Is Nat a reporter from the Mail, Daily Mail? 10

--- What page are you at?

Bottom of 36? --- Yes, those two are reporters.
And then I say on page 37: "Tell Paul to phone", now this
is Paul Totetsi(?). I was taking a crash course in
accounting so Paul was assisting me in this regard, he is
a chief accountant for some firm in Johannesburg.

Then you put him onto Accused No.1, is that right?
--- Yes.

And then I think that is the end of you in that
conversation. Then will you please turn to page 40? 20
That is you and Nat Sarachi? --- That is right.

It is quite a long conversation, try and be as
brief as possible on the less relevant parts. Who phoned
who and when was it? --- He phoned me.

And the time? --- It was in the afternoon, after
lunch I should say.

This one phrase, it is about two-thirds of the
way down: "Nat, things are turning out to be very anti-
now" have you got that? --- Yes.

What do you mean by that? --- Things were turning
out / ... 30

out anti now, anti - against us.

What were you thinking of? --- I was thinking of this whole thing about the Press reports about the banning and so on. And then I asked him, he says: "Ja, ja, ja," and I say: "Have you got the ..(Mr. Soggot intervenes)

Can I just interrupt you, why did you think that the Press reports - you are talking about false Press reports I take it? --- Yes.

About banning were against you, why did you feel 10 that way? --- I think it was because the Press reports, Your Lordship, were very malicious against us.

Yes but you see the phrase that I want you to deal with is "things are turning out to be against us" - what were you thinking of? How does that relate to the Press reports? --- PAUSE - It simply means that things .. (Court intervenes)

COURT: It is destroying the rallies, I mean here you are organising the rallies and the Press keeps on telling the people there are no rallies? --- And more than that, they 20 are painting the rallies in such a bad way for us, at least I thought at the time that the newspapers were being very malicious.

How were they painting the rallies in a bad way? --- They were saying we were smuggling the Frelimo people in, they were saying ..(Court intervenes)

You did not correct that statement? --- I did, Your Lordship.

MR. SOGGOT: That does appear, M'lord, from various tapes that we will deal with. That is one of the statements he 30 did / ...

did correct, M'lord. Would you carry on please? --- He says: "Ja, ja, ja", I say: "Have you got the latest", now Your Lordship, when I asked him "have you got the latest", I am referring to the conversation we had had in the morning that he said he would get back to - through his office to the Minister of Justice, now I am asking: "have you got the latest" from the Prime Minister - I am sorry, the Minister of Justice. And he says: "Well, ja, they say they are banning this thing for public interest in fact", I say: "Is that so".

10

All right, then he reads to you - I think we can cut through this a little bit - he reads to you the contents of a newspaper report which apparently comes from The Star, is that right? --- Yes.

And that dictation of it or telling you about it takes place on page 41, I just want to draw your attention to the bottom paragraph where there is reference to a telegram received about thousands of Whites in Durban who would stop the rally, is that right? --- Yes, that refers.. (Mr. Soggot intervenes)

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And then it goes on that the Minister's considerations, and that seems to end off on page 42 with the phrase: "I took all sorts of factors into consideration" then there is a Press release purporting to come from SASO and BPC? --- Yes.

And that refers to - it makes the allegation that you people are going ahead in defiance of the banning order ? --- Yes.

And they quote your statement "we are not aware of the banning", is that right? --- That is correct.

30

And / ...

And then there is reference to the word smuggle?

--- Yes.

"BPC were trying to smuggle four top Frelimo men into South Africa"? --- Well Nat says: "You see, they are still using the word smuggling".

Had you been talking to him before? --- Yes.

Mr. Myeza, just a little bit in the middle of the page there is a phrase here, it is again a quotation: "And of the fact that the manner in which it is being advertised has evoked strong emotional reaction and certain - probably in certain sections of the public". Now, what do you say about that proposition? --- Your Lordship, this is one of the things I was referring to about the Press being very malicious in reporting this ..(Mr. Soggot intervenes) 10

No, no, ..(witness intervenes) --- Oh, this is the statement.

I want you to deal with it, what do you say about it? --- This statement is incorrect, Your Lordship, the Minister was misinformed. I think, Your Lordship, you have seen the banners here, and it is just a "Viva Frelimo" rally. 20

COURT: No, I think you were on the right track just now, you see the next paragraph deals with the manner in which it has been advertised? --- Which paragraph is Your Lordship referring to?

He also used the fact that the manner in which it is being advertised, and says that it has evoked strong emotional reactions and certain sections of the public". "This is the latest development sparked off by this week's / ... 30

week's announcement by Mr. Muntu Myeza, secretary-general of SASO, that SASO and BPC were trying to smuggle four top Frelimo men into South Africa to address the Frelimo rallies in Durban, Johannesburg, Cape Town and Port Elizabeth". If I understand it correctly The Star referred to or reference is made to your announcement that Frelimo men are being smuggled into South Africa that is part of your advertising campaign? --- Your Lordship, this is incorrect that I said that we were going to smuggle in Frelimo people to come and address rallies here. 10

Isn't it possible that the Minister, relying on this what you call incorrect information, regarded this as a reason for banning the rally, because they regarded that as a dangerous type of publicity for such a rally because it evoked strong emotional reaction? --- No, Your Lordship, the Minister here was referring to the Koekemoer's telegram, because Koekemoer I think on Tuesday he saw one of these banners we had put up, and he ripped it down, he went to office or I think the shop, and he sent the telegram to the Minister, he was quoted as having said that. Now, the Minister was saying that is the thing that caused a strong emotional reaction, not the announcement which they say I made to smuggle Frelimo people in. Because Your Lordship I think you have seen the Sunday Times cutting of I think the 22nd, it doesn't say we are going to smuggle them in, the smuggling came in on Monday, that is when they started talking about smuggling, and when the Minister of Justice says: and the fact that the manner in which it has been advertised has evoked 20 30

strong / ...

strong emotional reactions in certain sections of the public, he is really referring to Koekemoer.

But why do you say that, because he says: this is the latest development, the banning is the latest development sparked off by those - by this weeks announcement by Muntu Myeza, secretary-general of SASO, that SASO and BPC were trying to smuggle four top Frelimo men into South Africa" - now how can this be a latest development, a development of what? --- PAUSE - Oh I see, they are saying this is the latest development referring 10 to ..(Court intervenes)

The banning, the Minister gives his reasons, advertising it in an improper manner? --- They say we are going to defy this banning, you see, Your Lordship, they said: this rally is banned on Tuesday morning, and we said; this rally is not banned, and they say now: SASO and BPC are saying this rally is not banned, and they are continuing in defiance of the banning order, which from what they say is already in existence. So the latest development is the statement from us which they say is the 20 defiance statement, defying the banning order which I think we know now was not in existence. So that is the latest development because the fact that the manner in which it has been advertised has evoked strong emotional reaction, was there already in the morning of Tuesday, and this is the Star which is an afternoon paper. So when they say this is the latest development, they are talking now, they say the Minister banned this rally, SASO says it is not banned, that is the development, they are taking it in stages. 30

Mr. / ...

MR. SOGGOT: Then there is reference to a statement by Dr. Mulder, and over the page, Mr. Myeza, if there is anything that you want to refer His Lordship to in particular please don't allow me to rush you, then on page 43 it continues? --- Just hold on a minute there - Your Lordship, on page 42, there they say - where there is that small 32 on the left hand side, they say: Nat reads to me, it says: "Tomorrow a pro Frelimo rally in Durban is going ahead in defiance of the banning order". Now, Your Lordship, they are saying there is a banning order ..(Mr. Soggot intervenes) 10

No, but you have explained that to His Lordship? --- I was thinking I did not come across.

COURT: Well as I understand it, subject to what you have to say or your Counsel has to say, he reads from the Star and he says well the Minister has banned it, and there are several reasons for banning it, and they mention the fact and he says "that is not the only consideration, there are all sorts of factors that he took into consideration", he says, "there is the press statement" 20 and he refers to what the Press statement is, and then he says "The Minister continued in his statement, the government had taken notice of the moves aimed at organising the mass meeting in Durban tomorrow" and then: "of the fact that the manner in which it has been advertised has evoked strong emotional reaction and certain sections of the public". This is the latest development sparked off by those - by your announcement that you are trying to smuggle four top Frelimo into the country? --- Yes, Your Lordship, but let us look at the 30 advertisement / ...

advertisement. The advertisement had gone out to the newspapers and that is what Your Lordship has seen as having appeared in The Sunday Times.

Well that may be so, I mean I am not arguing about the correctness of the quotations, I am only trying to construe what was read out to you by Nat Sarachi. To me it appears that Sarachi was conveying to you that the rallies were being banned for various reasons, the Press statement, on the basis that you people say that you couldn't care less if the banning is going on, and he says then, he has taken notice of the moves aimed at organising the mass meeting tomorrow, and the manner in which it has been advertised, and then he says this is the latest development sparked off by the fact that you made a statement that you are trying to smuggle these people in? --- Oh, now I see Your Lordship's point. You see, Your Lordship, this is The Star, it appeared in the afternoon of Tuesday, but what they are doing here they are just re - shall I say they are quoting over and over again what the Minister has already said, and at the time that the Minister talked about the fact that the manner in which it has been advertised has evoked strong amotional reaction, that statement that we issued on Tuesday had not come into existence. In fact that "we are not aware" Press statement came into existence because of the morning newspaper reports, and what he is saying is Nat is reading to me what appears in The Sunday Times..(Court intervenes)

Well that is what I am saying to you, Nat is trying to construe here - Nat is telling you why the Minister / ...

Minister banned the rally? --- But Nat is reading from The Star.

Quite, he is trying to convey to you what The Star says why the Minister is banning, and the factors that the Minister took into account. The factors being that you made a defiant Press statement, and then in addition to that there is the fact that you advertised the rally in a manner which evoked strong emotional reactions, the advertisement being a statement by you people that you have smuggled four top Frelimo men in to address the rally? --- That is The Start. 10

That is right, yes, The Star. Whether it is correct or not is beside the point, I am only trying to find out what transpired in the telephone conversation.

MR. SOGGOT. Now I think we got as far as page 43, and then Nat talks about the Durban correspondent's report which again is a reference to smuggling, now just deal with this please, from line 51, can you read it please? --- "Then the Star's Durban correspondent reports: 'mystery today surrounds the reported smuggling into Durban of four Frelimo leaders for the rally. Officials of SASO and BPC would not admit today whether the Frelimo men were in Durban or not. The telegram pleading for the government to stop the rally was sent by Mr. Cornelius Koekemoer of Berea who is a businessman." And I say: "We have got his phone number, he is the fool who usually writes letters to the Natal Mercury". 20

And you say you actually did phone him? --- Yes.

Was it subsequent to this conversation - if you know? --- No, I had phoned him before. 30

Now / ...

Now one thing I want to ask you is this, he reports to you that officials of SASO and BPC would not admit today whether the Frelimo men were in Durban or not. Had you been in a conversation with the Durban correspondent, and was that your attitude? --- No, I don't know who is this Durban correspondent.

You don't know who that refers to? --- No.

Then it goes on to deal with Mr. Koekemoer which I do not think we need spend time on, and then you call for Stella in a somewhat startling fashion, and he reads to you what Mr. Koekemoer has said on page 44, and then on page 45 there are still quotations, and that is what I want you to deal with please in the middle of the page, page 45, Nat says: "The big headlines say government to act on SASO rallies" and you say: "Mmmm" can you read from there please? --- PAUSE - "Ja, the big headline says government to act on SASO rallies, and then a sub-heading just below that says 'Frelimo men are in South Africa and came' - I say: "Mmmm", he says: "Ja, it means their claim is reported to be in South Africa".

Now the only question I want to ask you there is you don't contradict that allegation, is that right? --- Yes I do not.

Now why not? --- Because I just let it ride, here it says, I think the newspaper reported that day and it is quoted on page 46 that SASO's secretary-general, Mr. Muntu Myeza, is meeting with the Frelimo leaders and discussing the situation. They say: "A spokesman said those words".

Yes, that is the middle of page 46 you are referring / ...

referring to? --- Yes. Now I thought somebody obviously said that, I looked around after this conversation I asked: who said these things, and nobody came forward. But I didn't contradict this because I felt it was - I just let it go because I was still thinking at the time that the people who had gone to Mozambique would come, and it would sound very stupid for me to be contradicting reports, and say: no we didn't say this and we didn't say that, because we had been trying to do this and our corrections had been ignored by the newspapers. 10

All right, and page 46, further quotations, and then perhaps we can deal with Turfloop unless there is something of importance there - about six lines from the bottom, will you read from there, you say: "Ja, and then Nat tomorrow there is a rally, the big one in Cape Town" have you got that, at the bottom of page 46? --- The rally the big one, and there is one also at Turfloop.

Now when you refer to that - let me put it to you this way, who was organising the rally at Turfloop as you understood it? --- The SRC. 20

Is that what you understood at that stage? --- Yes, that is what I knew then.

Then the question is, how did it come about that you referred to Turfloop as one of the rallies? --- The fact is there was a rally at Turfloop, and I felt it would also be good if it got published.

And I think you in fact were in contact with No.6 about publicity for that, is that right? --- I think I spoke to him, it is in one of these conversations.

Yes, we will come to it later. And you tell him 30
on / ...

on page 47 that in ~~Sovenga~~ you can speak to the president of course, Sivengo 65. Now Sivengo is the telephone exchange for Turfloop? --- Yes.

Who would the president be that you refer to?
--- The president would be Accused No.6.

And then there is a reference to the brothers from Mozambique, perhaps you could deal with that conversation? --- Nat says: "Sivengo 65, will there be any of the people there", I say: "Which people" He says: "I mean the brothers from Mozambique", he is referring here 11 to the people from Mozambique, the Frelimo people, whether any of them would be in Turfloop. Now I think Nat here asks me about this because I didn't say anything to disabuse him of the - shall I say of the error in the newspaper that the Frelimo people were in South Africa and I was speaking to them or would be. So I say, I was suggesting over the phone and everywhere we don't say who will be there, who will be there.

Over the page please, you tell him that the Curries Fountain rally is going on, is that right? --- Yes. 20

And Johannesburg as well ..(Court intervenes)

COURT: At the top of page 48: "Ja, so that they are just there"? --- Oh yes, that refers to the newspapers say they are in South Africa, so just leave it there that they are just there in South Africa, I don't want to contradict that. Your Lordship will remember that subsequently on that Tuesday when I write about that draft I was referring to this morning, I said the guests of honour have excused themselves, you know Frelimo, there I was proferring a reason as to why they had left,

because / ...

because the impression had been created that they were there already.

MR. SOGGOT: All right, then you tell him that the Curries Fountain rally is going on, the Johannesburg, and then you say: "These fools cannot tell us what to do", I think the word man is deleted. What do you refer to by that, and then you also say: "they have gone too far"? --- Where is this?

In the middle of page 48, have you got that?

--- Yes.

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They have gone too far, and then in another line you say you are going to do something to them with an agricultural college connotation? --- Yes, I am talking about the newspapers.

Well just explain please? --- You see I say these fools - this refers to the newspapers, they can't tell us what to do, they can't us the rally is banned when it is not banned, and because of that they are going to bullshit them as it says there on page 48.

Yes, all right, how were you going to do that?

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--- I think we were going to bullshit them by saying - by getting the people to know that they are lying, this rally is not banned.

COURT: But you are talking to the Press? --- It is Nat Sarachi, Your Lordship.

But he is the Press, he is from the Daily Mail?

--- But Nat Sarachi, I think I can put him in a different class from that of the newspapers, you see, Your Lordship, at the time he was the organiser for UBJ, the Union of Black Journalists, and he was concerned about putting our

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point / ...

point in the Press which was very hostile to us. He was concerned for putting our point properly across in the newspapers, so although he is a newspaper man I would say he is our "in" man.

COURT: He phoned you for information and then you say this to him, and you tell him that? --- What, Your Lordship?

Nat Sarachi, he phoned you didn't he? --- Yes, we had been phoning each other.

I suppose to get information? --- I would give him 10 information also, where I can.

MR. SOGGOT: All right, then perhaps if you could refer to page 49 please, just read from the top of the page? --- I say: "the whole thing, this banning and all that meant that the conference as we had planned it would not be kind of affected by it, so we decided against it" - would be kind of affected by this. Your Lordship, I think I said earlier this morning that we had planned to have a preview to the rally on Tuesday when the people who had gone to Mozambique came back. Now Nat Sarachi is 20 asking about that Press conference, which I had said we would have here on Tuesday.

All right then just about ten lines down Nat says: "Gee, the people are excited here man, they are excited" - what did you understand him to say they are excited about? --- I understood him to be saying that people are enthusiastic about this rally.

And then you say a few lines down: "by shaking them to the roots" - tell us what you mean by that? --- "This time by shaking them to the roots", I cannot remember 30 precisely / ...

precisely but it would be that we shake them to the roots by getting the - PAUSE - by showing up the lie that the newspapers had put forward, and also by showing up the Minister of Justice to be - PAUSE -

Yes, to be? --- To be twofaced.

In what sense? --- In the sense that on the one hand the government of South Africa says we accept Frelimo, and on the other hand they are now banning this rally, and in fact they are saying they don't ban the rally they are just doing it in such a way that we ban it our own selves so that they can pull off and say we never really banned it. 10

And then you go on to say: "Look, Nat, I hope you people are not bluffing us - sorry he is reporting, don't worry about that. Could I refer you to page 50 please where you say about a third of the way down, you say: "Nat, we are going to have a very big thing tomorrow" have you got that? --- Yes.

Just read on please? --- And I say: "Of course it means I'll have to go to gaol for a year or something like that" and then I say: "They will further arrest me for publicising this thing after it has been banned" and then I tell him what the ...AWAY FROM MICROPHONE .. What I meant by this was: look Nat, if the newspapers are saying this rally is banned, we are saying this rally is not banned, it is their word against ours, and then we are going to have this rally because this rally we believe is not banned, and if I am wrong, the logical consequence of that is I'll have to go to gaol, they will arrest me for further publicising this. That is what I meant. 30

And / ...

And then you talk about the possible fine you might get, and then on page 51: "We are just taking that come back, we'll see it to the finish"? --- Here I refer to they will come back, we have made our point, the ball is in their court, they must make a come-back.

And then you say: "If we chicken out now we are going to be very bad"? --- Yes, if we chicken out, it will be very bad on us that the newspapers and the Minister of Justice just make sounds and we folded, that is what I meant.

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And then later on you say: we want to call their bluff, about the middle of the page, have you got that? --- On page 51?

You say: "We want to call their bluff, we want to see them in their true colours, we want to see them shooting us"? --- Yes.

Please describe that with accuracy please? --- I say we want to call their bluff, they will come up clearly in their true colours, we want to see them shooting us. Now, Your Lordship, I think I will take the sentences separately, first I say we want to call their bluff. Now, this refers to the newspapers, they are bluffing us, they say this rally is banned, included in their bluff is the government, and they must come more clearly in their true colours. This is also referring to those two parties, because here are the newspapers saying this rally is banned, and the Minister of Justice it appeared to me is acting in complicity with the newspapers, he is not doing anything to disabuse the newspapers of this, and the banning order is not forthcoming 3

so / ...

so I say now the newspapers have said this, come out and said the rally is banned, we say the rally is not banned, when the banning order does come if it does come, it will show that they have been lying, and we have called their bluff. And for the government to come out we want to see whether they mean what they say, whether they mean the things they say, when they say "we are moving away from apartheid" they mean those things, when they are going to discriminate against us holding this rally. And when I refer to "we want to see them shooting us" I am referring there to the reports in the newspapers where they were saying that there are thousands of irate Whites who want to come and shoot or disrupt the rallies, and the newspapers had picked up this thing, I had satisfied myself that same afternoon that this was not true, I had spoken to Koekemoer and he had told me he was talking about occupation, and the newspapers themselves had reported this. Now they have nobody to come and shoot us, and I was saying here to Nat we want to see them, we want to see these things, we want to see them shooting us. I think, Your Lordship, to make my point I will use an example. When we - during the proceedings of this case, when application was made after the end of the State case and we were arguing on Count 1 and the acts and what acts had been alleged and so on, the prosecutor said, Your Lordship, I am not quoting verbatim, he said the State submits that there have been acts, the State has alleged acts, the acts are there in the charge sheet, and Your Lordship said: where in the charge sheet are those acts, and the prosecutor

said / ...

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said here in the charge sheet. Your Lordship said, let us look at the charge sheet. You looked at the charge sheet and you said but there are no acts alleged here. And the prosecutor said, Your Lordship, the acts are there in the Particulars, and I heard Your Lordship say let us see those acts, what acts are these. And the prosecutor was saying, Your Lordship, they are there in the Further Particulars, and Your Lordship said: let us go to the Further Particulars ... INAUDIBLE .. let us see those acts. And Your Lordship, subsequently Your Lordship gave judgment to say that the prosecutor alleges unspecified acts, and as a result they couldn't rely on the presumption raised by Section 2(2) I think .. (Mr. Soggot intervenes) 10

But how does that relate to "we want to see them shooting us"? --- Now, M'lord, how that refers to it, here I am saying to Nat Sarachi: those people are saying there are acts, - I will call the violent irate Whites and those people who want to shoot us - I will call them acts, there are acts, I am saying there are no acts, let us see those acts, if this is true then they will have to show us the acts. I wonder, Your Lordship, if I am making my point, but this is what I was saying here to Nat Sarachi, I was saying: these people are lying to us, they are lying to us, they are lying to the whole world (LAUGHTER) 20

I think this might be unnecessary, but can you be a little bit explicit on one point, did you welcome the idea of seeing any shooting or not? --- No, I couldn't because there wasn't anything like this, these people were lying to us. 30

Well / ...

Well, let me put it to you another way, what were your views as to the possibility of there being any shooting? --- There wasn't any possibility, I knew that Koekemoer, I spoke about him this morning, they picked up on a person Koekemoer who usually writes letters to the letter pages of the newspapers, and they pick up one letter that he had written some time ago, and they say he has written it recently, they quote a paragraph and say: in his recent letter Mr. Koekemoer said South Africa must fight against so and so - murderers 10 called freedom fighters, and they want to say now this is the type of man who is violent, who is saying we must fight against the terrorists, who is saying he has got thousands of Whites to come and massacre the people, to disrupt the rally at Curries Fountain. This is what I was talking about.

Then the next is a reference to the names ..(Court intervenes)

COURT: Why do you talk about shooting when nobody else talks about shooting? --- Your Lordship, if a person talks 20 about violence, I would have said they want to come and do all kinds of things, but shooting ..(Court intervenes)

But nobody talks about violence here, you are just talking about calling the people's bluff? --- Where?

On page 51? --- I am talking, but I am talking about the reports of Koekemoer and his thousands irate Whites.

MR. SOGGOT: I think what he is trying to explain to Your Lordship is that it is part of a newspaper bluff to use Koekemoer and the suggestion that a thousand Whites were going to break up things, is that what you are trying 30

to / ...

to say --- That is what I am saying.

Then on page 52 - oh, at the bottom of page 51 there is a reference to the Frelimo people, and you say that you won't divulge anything, I don't know if you want to comment on that? --- PAUSE

And then over the page you are still dealing with that, and you say to him: "So you reckon for security reasons we must keep their names", have you got that? --- Page?

Top of page 52? --- Yes, it is Nat Sarachi who said that. 10

And then in the middle of the page, slightly below the middle Nat asks : Will the rally be at 5.30 and you say: yes, and then he talks about Turfloop, will you deal with that please? --- He says: "This one at Turfloop, where will it be", I say: "At Turfloof", and he says: "Will it be on the campus", I say: "On the campus". He says: "Do you think the Council will allow it?" I say: "They have to, that is their campus".

Then you refer to General on page 53? --- The general of the SRC. 20

COURT: General SRC? --- The general of the SRC, the general of Turfloop, that would be the president of the SRC who was No.7.

MR. SOGGOT: Well you have heard No.6 and No.7's explanation about that, is that your understanding? --- That is my understanding.

When you refer to president you refer to whom? --- When I refer to the president I refer to the president of SASO. 30

And / ...

And when you refer to General? --- I refer to the president of the SRC.

And then the record reads: "By General ..ja " and then originally was the word "Nef" and that became nè? --- Yes.

M'lord, this is in terms of Your Lordship's own ruling at the stage.

COURT: What was my ruling?

MR. SOGGOT: I don't know why my learned friend suggests that Your Lordship's ruling might be a matter for mirth, there was a dispute, M'lord, as to whether it was Nef or nè, and my learned friend, Mr. Attwell said ..(Court intervenes)

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COURT: That was my resolution of the dispute.

MR. SOGGOT: That is correct, M'lord. Did you use the word Nef there? --- No, it is Nat who says nè.

M'lord, it is our submission notwithstanding Your Lordship's ruling, because at that stage the relevant importance of this might not have been quite in focus, it is our submission that the tapes are quite clear on that, that is is nè and not Nef, M'lord. And as Your Lordship might have noticed ..(Court intervenes)

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COURT: Well it is the first time that he used nè, otherwise he used ja and Mmmm.

MR. SOGGOT: No, M'lord, I would like to say with respect that there is a fairly liberal intersprinkling of nè's in this conversation.

COURT: Well then they have alluded me so far in this very long conversation. Can you refer me to some?

MR. SOGGOT: Is Your Lordship referring me to Nef or nè?

COURT: No, nè. It starts on page 40 and this is on

page 53 - PAUSE -

MR. SOGGOT: M'lord, I have found nè, may I make a suggestion to the witness, M'lord, that he go through it and pulls out all the references to nè.

COURT: In this conversation - you see it is Nat who uses it, I mean it is no use looking at other conversations.

MR. SOGGOT: Oh, I am sorry, M'lord, then I have got the wrong end of the stick in what I have just put to your Lordship.

COURT: Anyway I have already given a ruling on it, there is no point in wasting time. No.6 personally said that he is called General. 10

MR. SOGGOT: M'lord, they both gave evidence that the SRC man, SRC president, had come to be called General, and then after No.6 was succeeded by No.7 he became General.

--- Your Lordship, on page 51, the third line, there is one.

Then in the middle of the page please, let us try and finish off this conversation ..(Court intervenes)

COURT: Did you say the third line on page 52?

MR. SOGGOT: On page 51, M'lord. Can you just deal with a few more phrases, Mr. Myeza, you say: "These crowds must now realise that really man their time is out" - that is what Nat says? --- Yes. 20

And then you say: "We just pushed them rather too far, too far and too fast", just tell us what you meant by that? --- I meant we have out-manoevred them.

You have out-manoevred them, and how did you understand you to have out-manoevred them, and who is them? --- Them means these two parties that we were facing.

Namely? --- The newspapers and the government. 30

And / ...

And how had you out-manoevred them? --- We had out-manoevred them by - PAUSE - by seeing through their bluff.

Well that only suggests perspicacity on your part, how does it involve out-manoevring? --- Well, we out-manoevred them in the sense that they said this rally is banned, and we said it is not banned, and we caught them out.

And then, I don't know if there is anything else that you want to refer to, and you say towards the end of the conversation you are going to have a big thing here tomorrow, that is on page 54, are you referring to your rally? --- Yes. 10

You say : "It is just D-day"? --- Ja.

Now D-day I think historically refers to an invasion day, what did you refer to? --- I meant an important day.

COURT ADJOURNS

/VMD.

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