

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

In the matter between:

Date: 15.12.76

15 Dec.

THE STATE

v.

- GUILTY on count 1*  
*GUILTY on count 2*
- BPC (1) SATHASIVAN COOPER  
SAPC (2) JUSTICE EDMUND LINDANE MYEZA  
SASO (3) MOSIUOA GERARD PATRICK LEKOTA  
SPC (4) MAITSHE NCHAUPE AUBREY MOKOAPE  
KPC (5) NKWENKWE VINCENT NKOMO  
SFC (6) PANDELANI JEREMIAH NEFOLOVHODWE  
SASO (7) GILBERT KABORANE SEDIBE  
(8) ABSOLOM ZITULELE CINDI  
(9) STRINIVASA RAJOO MOODLEY.

SASM-58  
(1967)

CHRIST-59

AZANIA-74

B. Kade ...

BAWU-168 ff.

p. 212 ff. [Excerpt of ...]

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At the conclusion of the case for the prosecution the Court held that there was a case to meet, on Count 1 for accused Nos. 1, 2, 3, 4, 5, 6, 8, 9; on Count 2 for accused Nos. 1, 2, 3, 4, 5, 6, 7, and on Counts 5, 6, 7 and 8 for accused No. 1.

From that stage onwards, Mr. Soggot appeared for all the accused up to a very late stage of the defence case when Mr. Pitman came back into the case and took over the defence of accused Nos. 1, 2, 5, 7 and 8. Mr. Soggot continued to act for accused Nos. 3, 4, 6 and 9.

All the accused gave evidence, and several witnesses were called by them.

of law and order and if such act had or was likely to have had any of the results stated in section 2(2) then the presumption in respect of the intention is to come into operation.

It is a significant feature in this case that the allegation of a conspiracy widened the ambit of initially admissible evidence.

The acts, writings and declarations of any one of the alleged conspirators in pursuance of the common enterprise, were admissible against the others. Now at the end of the case, the Court has to consider whether there was a common enterprise for the alleged purpose and whether the accused were parties to it. Once there is evidence aliunde of a common enterprise and the parties thereto, the acts, writings and statements, executive as opposed to narrative, of any one of the conspirators are admissible to confirm the scope of the common enterprise or the conspiracy and the nature of the steps taken to carry it out. Such acts, writings and statements of conspirators before any particular conspirator joined the association, are receivable against the latter to prove the origin, character and object of the conspiracy.

The practical effect of all this is that the evidence of the general matter was only provisionally relevant against the respective accused until evidence was given that they were parties to the common enterprise. If evidence was first given of the acts, writings and statements of a particular alleged co-conspirator, that was only provisionally relevant as against the respective accused until it was shown, either

from the manner in which these acts were done or otherwise that the acts were done in pursuance of a design common to the co-conspirator and the accused. In this way a mass of evidence was placed before the Court.

The prosecution called several accomplices as witnesses and the Court is aware of the rule of practice, commonly called the cautionary rule, which requires that caution should be exercised in dealing with the evidence of an accomplice even where the provisions of section 257 of the Criminal Procedure Act, No. 56 of 1955, have been satisfied.

An accomplice and alleged co-conspirator, Harry Singh, was called as a witness for the prosecution and he gave evidence on important aspects of the case against the accused. He was justifiably criticized by the defence as not being wholly consistent and reliable but that does not preclude the Court from relying on his evidence if the Court is satisfied beyond reasonable doubt that in its essential features the story which he tells is a true one; see R. v. Kristusamy, 1945 A.D. 549 at p.556. He was corroborated in many and material respects by the accused and the documents in the case.

The documents placed before the Court by the prosecution nearly all relate to the activities of the respective accused persons and the affairs of SASO and BPC. They are by virtue of the provisions of section 2(3) of the Act, admissible in evidence against the accused as prima facie proof of their contents. The defence does not dispute the accuracy of the contents of the documents although it is sometimes difficult to reconcile the evidence of some of

the accused with the contents of the official documents of the two organizations. The prosecution is relying on these documents to establish the aims and objects of these two organizations and the conspiracy alleged in Count 1.

As far as the organizations are concerned, the documents can be divided into four categories, viz.: basic policy documents, interpretative documents, exploratory documents and other documents.

Basic policy documents include the constitutions of the organizations, manifestos put out by them, resolutions of the National congresses and reports from branches and from the National congresses.

Interpretative documents include documents put out by the organizations or speeches made by leading members of the organizations which interpret or elaborate on policy. They carry considerable weight on casting light on what the policies are.

Exploratory documents are essentially reports of formation schools and seminars organized in connection with the organizations which explored possible policy development.

Other documents refer to poems, other speeches by members of the organizations and pamphlets produced by the organizations.

It is essentially the function of the Court to interpret these documents and to determine their value as evidence. Some have testimonial value and others again merely have circumstantial value. The authenticity, source and authorship of all the documents before the Court are not in dispute.

The conspiracy alleged by the prosecution is to be inferred mainly from basic policy documents and interpretative documents of SASO and BPC. The acts, writings and declarations of the alleged co-conspirators in pursuance of the alleged conspiracy, the exploratory documents, in so far as they furnish proof of executive acts, and the other documents in so far as they were employed as executive acts, are admissible in evidence to confirm the scope of the conspiracy and the nature of the steps taken to carry it out.

On the evidence the reasons why and the circumstances in which SASO and BPC were formed can be stated as follows:

Starting with SASO, dissatisfaction with the White dominated National Union of South African Students (NUSAS) led to the establishment of several Black student organizations. The Durban Students' Union and the Cape Peninsula Students' Union (CPSU), which later merged to form the Progressive National Students' Organization, were fanatically opposed to NUSAS initially and adopted the emotional slogan of the Non-European Unity Movement of non-co-operation with collaborators. CPSU refused to co-operate with NUSAS in their protests and other forms of activity. They saw NUSAS as a student wing of the imperialist front whose intent was to control the Blacks.

In 1961 and 1962 the African Students' Association (ASA) and the African Students' Union of South Africa (ASUSA) were established. Both these organizations were concerned much more with national issues and saw themselves as student wings of the national movements. The differences between ASA

and ASUSA were ideological and attempts to unite them failed. Lack of co-ordination prevented progress in any recognizable direction as the two organizations were bound to compete with each other. NUSAS was at that stage by no means a spent force on Black campuses and commanded quite a following which capitalized on the differences of opinion between ASA and ASUSA. This fact and intimidation and victimization of their individual leaders led to the collapse of both ASA and ASUSA. The formation of the University Christian Movement (UCM) in 1967 gave Black students a greater chance of coming together. Because of its more radical stance and also because at that stage it had not developed a bad complexion politically in the eyes of the authorities of the Black campuses, UCM tended to attract more Black students. One of the most talked about topics was the position of the Black students in the open organizations like NUSAS and UCM. Concern was expressed that these organizations were White dominated and paid very little attention to problems peculiar to the Black student community. Some people began to doubt the competence of a pluralistic group to examine without bias problems affecting one group, especially where the unaffected section is from the group regarded by the Blacks as the oppressor camp. It was felt that the time had come for the Blacks to formulate their own thinking unpolluted by ideas emanating from a group with lots at stake in the status quo, or what is also referred to as the system. At the UCM conference in 1968, 40 Blacks from Fort Hare, Ngoye, Bellville, Theological Seminars, Turfloop, University of Natal Black Section (UNB) and Teachers Training Colleges resolved themselves into a Black caucus and debated the

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possibility of forming a Black Students' organization. The UNB group of students was asked to investigate the chances of holding a conference of Black student leaders that same December. The Students' Representative Council of UNB was asked to convene the conference which resulted in SASO being formed that December 1968, in Marianhill Hall at the University of Natal, and being inaugurated in July 1969 at a SASO conference held at the University of the North, Turfloop.

The preamble to the constitution of SASO reads as follows:

" Whereas we the Black students of South Africa, having examined and assessed the role of Black students in the struggle for the emancipation of the Black people of South Africa and the betterment of their social, political and economic lot, and having unconditionally declared our lack of faith in the genuineness and capability of multi-racial organizations and individual Whites in our country to effect rapid social change; and believing that:

- (i) Black students in South Africa have unique problems and aspirations pertaining to them;
- (ii) it is necessary for Blacks to consolidate themselves and close their ranks if their aspirations are to be met;
- (iii) there is a crying need in South Africa for Blacks to reassert their pride and group identity; and recognising the principles of the Kumasi Declaration of January 1971, do commit ourselves to the realization of the

" human dignity and promoting consciousness and self-reliance of the Black community; Hereby resolve: to adopt this constitution with the determination that unity and positive reawakening will result in the Black world. "

The Kumasi Declaration was a resolution passed at a conference of Black students at Kumasi in Ghana and reads as follows:

" Whereas we the students of the African continent, having realized the Africans' bitter experiences of slavery, colonialism, imperialism, neo-colonialism and racism and all their implications and ramifications; having realized the need for a reawakening of the continent and the peoples therein; having also realized the need for a union of the African peoples; having realized that slavery, colonialism, imperialism, neo-colonialism and racism have aborted the realization of the aspirations of the African peoples; and having also realized the common plight of our brothers in some other continents; now resolve to organize ourselves by the Kumasi Declaration into the Pan-African Students' Organization. "

The aims and objects of SASO are stated to be:

- " (1) To promote contact, practical co-operation, mutual understanding and unity among all Black students in South Africa.
- (2) To represent the interests of students on all



issues that affect them in their academic and community situation.

- (3) To heighten the sense of awareness and encourage them to become involved in the political, economic and social development of the Black people.
- (4) To project at all times the Black Consciousness image culturally, socially and educationally.
- (5) To become a platform for expression of Black opinion and represent these internationally. "

In terms of the interpretation clause of the constitution, "Black" must be interpreted as reflected in the SASO Policy Manifesto. The second paragraph of the Manifesto reads as follows:

" We define Black people as those who are by law or tradition, politically, economically and socially discriminated against as a group in the South African society and identifying themselves as a unit in the struggle towards the realization of their aspirations. "

Membership to SASO is open to all Black students and organized school groups can also apply en bloc for membership. In terms of the interpretation clause, unless inconsistent with the context, student means all those studying at institutions of learning which include universities, colleges, seminaries and post-primary schools.

The General Students' Council (GSC) is the highest policy-making body of SASO and consists of delegates from all affiliated centres and members of the Executive Committee. The Executive Council consists of the president, vice-

president, secretary-general, permanent organizer, director of publications and Students' Representative Council (SRC), presidents of affiliated centres, or the chairman of the SASO Local Committee where there is only a branch or where there is no SRC. The executive committee consists of the president, vice-president, secretary-general, permanent organizer and director of publications and is in charge of the day to day running of the affairs of SASO.

The president is the chief executive officer to whom the executive council members are responsible, and wherever necessary, represents the organization. He carries out the aims and objects of SASO and issues statements on behalf of SASO in conjunction with the secretary-general. The vice-president assists the president and deputises for him and is also responsible, together with the secretary-general for maintaining the international relations of SASO. The secretary-general is the chief administrative officer and sees to the application of the aims and objects of SASO as has been interpreted in the minutes and resolutions of the executive council and the GSC. The permanent organizer is the liaison between the executive council, the centres and the general membership of SASO. The director of publications is, in conjunction with the secretary-general, responsible for all SASO publications which must reflect the views and opinions of students and Black people on issues that affect their daily lives. He must also, from time to time, publish other material and fact papers that would contribute to the formulation of a viable and strong feeling of self-reliance and consciousness amongst the

students and Black people at large. The SRC presidents and SASO local committee chairmen must in their respective centres promote the interests of SASO and be in loco representatives of SASO.

SASO sees Black university students as part of a wider suffering community who must take over the responsibility of the peoples' destiny and devote themselves to the task of eradicating all evils, resolving all problems and generally transforming the spirit of the people. This is the leadership role Black students are to play towards the development of their people. At the second GSC held from the 4th to 10th July 1971 at the UNB the following SASO policy manifesto was adopted:

- " 1. SASO is a Black students organization working for the liberation of the Black man first from psychological oppression by themselves through inferiority complex and secondly from the physical one occurring out of living in a White racist society.
2. We define Black people as those who are by law or tradition, politically, economically and socially discriminated against as a group in the South African society and identifying themselves as a unit in the struggle towards the realization of their aspirations.
3. SASO believes that:
  - (a) South Africa is a country in which both Black and White live and shall continue to live together.

At the unveiling of the tombstone on 17th December 1973, a document issued by BPC and purporting to be a tribute to Shezi, was distributed. Accused No. 8 attended the ceremony. Shezi's death was represented as an assassination, and the tribute read as follows:

" The name of the late Mthuli ka Shezi, Vice-President of the Black People's Convention, has gone down in the pages of the History of the Black Struggle with the rest of the Black Heroes who have fallen victims of fascism and Nazism as perpetrated by the monolithic white-racist regime of South Africa.

The purpose of this short message to the Black World is not designed to mourn the violent assassination of Mthuli ka Shezi's death, but rather calls for a re-dedication and re-assertion of the Liberation Movement towards its goal. This is a pledge of Solidarity with Mthuli ka Shezi and a recognition of Mthuli's untiring efforts and dedication to the Black Struggle.

The violent assassination as inflicted by an agent of protection of White racism superiority and oppression on our Black brother should not be regarded as being directed towards him alone, but should be regarded as a concerted assault on the entire Black Community.

Who can deny that the ravages of poverty, disease and violations of all forms on the Black lives are neither situational nor are they accidental? Who can deny that the thousand of Black Children and Black Mothers and

" Fathers who die of starvation inculcate a deliberate attempt to extinguish from the surface of the earth, the entire Black Nation?

Mthuli ka Shezi stood upright and with dignity against all the indignities and assaults directed at the Black lives.

He sacrificed his whole life in the endeavour to liberate his people from psychological and physical oppression. He stood for the total involvement and the Solidarity of all the 23 000 000 Blacks of South Africa.

He is a true martyr whose ambition was translated in his dedication and tireless efforts towards setting the path towards the goal of liberation of all Blacks from the yoke of oppression by a minority of White Settlers. Mthuli ka Shezi had freed himself from Psychological oppression and had realised that the assaults on our dignity are part of a warfare to instil inferiority complexes on the Blacks.

He had rid himself of mental oppression as perpetuated by the mass propaganda of racists. These realisations earned him the hatred of racists and utterances of 'Terrorist or Communist' by racist and protectors of White superiority and Nazism.

Indefence of the inherent dignity and pride of the Black man he will rank as a Black martyr and shall live in our minds as a symbol of Solidarity and the Black Struggle for liberation. His violent assassination is a clear call to you and to me of the urgency

" urgency with which we are faced in the struggle for liberation of the 23 000 000 Blacks in this country.

'BREAKING THE CHAINS' "

On the 11th January 1973, S. Buthelezi, as secretary-general of BPC sent letters to foreign investors, drawing their attention to the resolution at the BPC conference, calling upon foreign investors to disengage themselves from the White-controlled exploitative system. On the 9th February 1973, he wrote to foreign embassies, sending them the Constitution of BPC and a communique relating to the resolution, and other resolutions relating to dialogue and sport policy, and requesting them to convey the contents to their governments. The defence admitted that the letters were received by the foreign investors.

On 28th February 1973, S. Buthelezi sent a circular letter to BPC branch offices informing them that the BPC national executive committee deemed it imperative to Black people to recall the disaster of Sharpeville in 1960, lest they forget the victims of the racist regime. He recommended as big an involvement of the general Black public as possible, and appealed to all Black people to observe the 21st March, not only in remembrance of the Sharpeville massacre, but of other instances that occurred in their history where Black people died for their political convictions and zest for liberation. He assured the branches of further assistance as regards the factual situation by way of a circular which would reach them soon.

A fact paper was issued jointly by BPC and SASO

and the purpose of the paper was stated to inform the reader about the events which had occurred on 21st March 1960, which culminated in the massacring of scores of Black people at Sharpeville, Langa and various other places in South Africa, and also to put in concrete form most of the incidents of police brutality and shooting, directed towards the Black people of South Africa. The information in the paper was stated to be factual and without comment and sought to illustrate that incidents such as the recent shooting of Black people in Port Elizabeth were not isolated, but part of a grand master-scheme to keep Blacks intimidated. The belief was expressed in the paper that whatever/<sup>was</sup> listed therein would demonstrate to Black people how the system and its agents operated in this country. It was also stated that many more incidents which peculiarly enough affected only Black people, had not been revealed or had been glibly explained away as accidents and that this referred to those who had lost their lives on the farms, in gaols, in the mines, in train-accidents, etc. The paper then referred to numerous incidents in which Black people had lost their lives, and where Black people had been involved in incidents with the police. Under the heading of "Change in S.A.", the following was stated:

" Neither the lessons of history nor the law of averages are going to effect any change in our sad racist situation. If change must come it has to be through our own doing. Oppressors have never been in the habit of handing out

" freedom to a subjugated people, especially in the form of a 'seperate stan'. The apparent indifference with which we view our position as an oppressed people can easily be gauged by our seeming unwariness in accepting in our midst the paid servants of the white minority government. "

Accused No. 1 as public relations officer, compiled an information brochure in which he referred to cowardly and unprovoked attacks against the Blacks, which atrocities they recalled with unmitigated anger and contempt. He wrote under "Accidents and defenceless Blacks" in the following agitational manner:

" Heinous attacks by the protectors of the white fascist system have almost exclusively been directed against defenceless Blacks. Many more "accidents" have peculiarly befallen unsuspecting Blacks - train accidents, mining disasters, police brutality.

The frequency of such incidents is so common that we unfortunately tend to turn a blind eye or a deaf ear to the systematic and premeditated white-print for the annihilation of Blacks.

These bloody attacks become just another event in our lives which we quickly shun to the furthest depths of our minds. We have all too quickly become accustomed to bearing white insults and to turn the other cheek. "



On 9th March 1973, Mabandla, of the Braamfontein branch of BPC wrote a letter inviting organizations to Sharpeville Commemoration Services and started the letter with the words:

" On 21st March 1960, our people were mercilessly mowed down by White men for resisting the infamy of the Settler Regime, and on yet another similar occasion, our people were again shot down at Langa. These are some of the incidents that shape our historical experience. We mourn the loss of these heroes, but our mourning is creative and positive. We must continue with the struggle because they died; their death is our reason to go on. "

The Sharpeville commemoration service in the Kajee Hall, Durban, was advertised by a BPC pamphlet purported to be issued by accused No. 4, representing UNB, Ben Langa, as the acting secretary-general of SASO and Harry Singh as chairman of the BPC Overport branch.

The Sharpeville commemoration meeting was addressed by accused No. 4, Harry Singh and others. Accused No. 4 referred to Brothers and Sisters who were murdered cowardly, and were killed callously without mercy. He indicated that Black people were prepared to have their blood spilled just as much as the blood of their Brothers was spilled at Sharpeville, Langa, Bulhoek, Bondelswart and countless other places in the liberation of the movement. He also stated that White people in this country had displayed amply their willingness at any time to murder and kill Black people each time

they registered a negative vote. Every time Black people called out in protest, the White people ran for their guns. At no stage in the history of this country had the White man ever been prepared to talk to the Black man.

When thanking a speaker, accused No. 4 said that the greatest tribute the Blacks could pay to those who lost their lives at Sharpeville, Langa and other places, was to carry on relentlessly with the work they had begun, to carry on without fear, because they had only but one road and that road was total, unadulterated revolution. In his evidence in Court, he explained that he meant fundamental change when he used the word 'revolution'.

Singh made an inciting and agitatory speech. He said Sharpeville did not start 13 years ago, it started way back when the long-haired pale-faced terrorist, by the name of Jan van Riebeeck landed here. It was then that the plundering, the massacre, the raping and the brutality against the Black people started, and it was being carried on up to the present time. At any time, or any minute, in a little corner of South Africa, at least ten people, which was a conservative estimate, were being either raped, brutalised, terrorised, or being flogged to death on a White farm by a White; that was the bastard nation in South Africa because he had no legal right to live in South Africa. He also said that Sharpeville and Langa would continue happening daily until every Black man had won his freedom, even if it took ten

must be aware that the day of reckoning with the fascists was at hand. Black people were insulted and looked down on by the minority White racist regime who depended on military force and violence as perpetrated at Sharpeville, for the maintenance of their illegal regime. Mr. Vorster was a frightened man and knew that his days of White domination were over and would do everything to delay this. It further stated:

" Let us be warned that there will never be another Sharpeville but there could be another Vietnam. He (Vorster) is the only man who will determine the nature of the struggle. Black liberation will come before his banning orders expire. Black majority rule will come willy-nilly. "

Because of the restriction placed on executive members, accused No. 5 wanted to call a special national council meeting on 29th September 1973, in Johannesburg. In his letter to the assistant at the head-office of BPC he asked that a copy of the notice calling the meeting also be sent to Mayatula and his interim committee and other people who could be of use. According to accused No. 5, the notice had to be sent to Mayatula and his interim committee because so many of the then existing executive committee members had been restricted. The notice ends with the following poem, written by accused No. 5:

" Weep! We weep no more  
Tears accomplish no good.  
For our rights we shall fight -  
Medals of honour our wounds shall be.

" Blood shall be the price  
Dearly paid for our country  
Gory soil shall pave the streets  
Of independent Black Azania,

Embalmed shall be the bodies  
Of our black brother heroes  
To live as monumental memento's  
For our coming generation of babies.

Rise up and shine  
Ye beautiful blacks  
Black is the future  
Black is the power.

NKWENKWE NKOMO "

The 2nd national congress was held at Hammanskraal on 4th December 1973. It was attended by accused Nos. 5 and 8, Mayatula and the wife of accused No. 1. Accused No. 8 was elected secretary-general, accused No. 5 national organizer, Farisani, president, Colin Jeffrey vice-president, and Rev Cooper (brother of accused No. 1) public relations officer.

The Diepkloof, Orlando, Noordgesig branch of BPC reported that its relations with SASM were strong and that they were taking part in the selling of its newsletters. Joint projects with some of their members were also undertaken.

In a newsletter of SASM, agitatory and inciting articles appeared under the headings "Black people open your eyes", "Wake up" and "Consciousness". In the last-mentioned article the following is stated:

" When a Black man says 'I am conscious' he/she is conscious of what? I can say that he/she is feeling black, and with this feeling he/she will overcome the oppression by a white pig, and his/her aim is that he/she will struggle with those

" who are in the struggle. To my Black brothers and sisters I can say you must not let a pig use you as a tool, as they used to do. If he/she is trying to use you as a tool, be useless and he/she will put you in his/her tool-box. As a Black brother/sister you will conscientize the other Blacks and they will see that you are free and they will say 'Fokof' to white pigs. "

In the article "Wake up", it is stated

" We as the Black people must see to it that we are going to participate in the struggle just because it is the duty of each and every Black to eradicate this racialism and separate development. We must see to it that we demand our forefathers' land from the white racists, robbers, thugs who cheated our forefathers by giving them the Bible whereas they on the other side were occupying our land by means of fraud. Wake up, Brothers and Sisters of Africa, and don't be easily overcome by these white liberals. Solidarity and co-operation are the only way by which we as Blacks can achieve success. Let yourself not be confused by these Black and White liberals, I mean these so-called Bantustan leaders who appear to be our saviours, whereas they on the other side are preparing a future for their families. "

Under the heading "Black People open your Eyes", the following is written:

Nowadays we are born as modern slaves. born in chains. born to be valuable machines of a white man. He is a human being and we are just good animals to be used by him. We are oppressed from hour to hour by the oppressing clutches of a white man, and he is oppressing us right in our home, i.e. in our country. But Black people, why do you let the foreigner to bully you in the soil of your fathers? Blacks used to believe that no matter how strong a man is he cannot bully him in his yard. Everyone is a boss in his surroundings, why is the white man the boss then? Are you afraid of being banned?

Our grandfathers, our fathers and brothers died knowing not how rich their country was. What they is that the people are suffering. Do you want to die without winning your country back? Do you want your coming generation to be born in chains? If not, let us start now, Africa for Blacks from Cape to Cairo. God has chosen the piece of land for us. If we let the white man rule us here I think it will be a sin and a curse on us. Our forefathers died for this country. They died not for themselves but for their generations. If they could rise from their graves and see that we are not proud of our own inheritance then they will start cursing us as I think they are doing. Daily the black man is dying outside we have seen them in Sharpeville, we have seen them in Western

Deep level and we have seen them in so many places. The white man is killing us momentarily. Some days you will hear over the radio that all the blacks have died in the mines and only one white has been injured. Would we not believe that he (Whitey) is trying to eliminate us purposely?

We have witnessed such cases in the sixties when blacks had like flies being killed by the white. We are seeing it even today in this land of ours. Black people is it time for you to rise. Messia will never come from heaven to free you, but your spirits will make Him protect us. Open your eyes see the signs that restrict you from sitting next to Baas Whitey, see the benches on which you are not to sit on them in town. Open your eyes to the misleading things he is giving you. We are being given strips of lands, what is the use of the lands to us? Think of it a majority being given a minority land, and the minority given the majority of the land. Blacks don't fight for a dry bone. people are fighting for positions in the so-called parliaments. Will there be any change if any of the so-called opposition parties win? If so why fight for something that has no benefit to the black community? Everything lies in the hands of Whitey in Cape Town. Let us leave the so-called parliaments and concentrate on the master heard in Cape Town. Blackman open your eyes.

" Blackman beware of the misleading so-called leaders. Many times has Whitey told them to ask what they want when the so-called fathers ask Whitey ignores them, is that justice? Is this matter of Bantustans not a way of keeping us away from him so that we cannot see his plottings? Blackman this man dumps us in Zwelitsha, he dumps us in Linge, in Transkei, in Mdantsana, this in Victoria East, in Hetsheel, this man dumps us in Sibasa, in Mlazi. Oh! even in DIMBAZA. Where is this man dumped all over our father's land. Open your eyes brothers.

THE SON OF AFRICA ..... "

According to Singh, accused Nos. 1 and 4, Mayatula and he met regularly in Durban and plans were discussed to condition Black workers, with the assistance of BAWU, for a national strike within 5 years. It is quite clear from the evidence that accused No. 1 was in charge of BAWU, and BAWU's offices were regularly used by BPC. These offices were near the SASO offices in Durban. At the beginning of 1974, accused No. 1 asked Singh whether he would be prepared to go to Europe to raise money for BPC. Singh replied in the affirmative and accused No. 1 said he would confirm it with the president of BPC. A week or two later, Farisani came to Durban and in the flat of accused No. 1 it was agreed that Singh would go to Europe and Farisani undertook to supply Singh with a list of persons and addresses in Europe. Singh made all his arrangements with the assistance of accused No. 1, who



compiled a document on BPC which Singh had to use in order to introduce BPC to the persons from whom he had to collect money. In this document the policy of BPC is set out. It is therein stated that the duty of BPC is resistance and not collaboration with the oppressor, the goal being liberation, which cannot be handed down by the oppressor under any circumstance, especially those prejudiced to his own interests and "security". In respect of youth programmes, under the heading physical preparedness, it is stated that it will have been observed that no revolutionary programme whose end goal is nothing but liberation, can ever hope to achieve that end without adequate groundwork and a thorough preparatory programme on the physical level. Drake Koka of BAWU sent Singh R500 and accused No. 1 handed him his air-ticket.

Accused No. 5 had been to Doornkop where Black people had been resettled, and on 10th July 1974, accused Nos. 5 and 8 issued a press-release to the Rand Daily Mail, in which they as respectively national organizer and secretary-general of BPC, pledged solidarity with the people of Doornkop in their stand by refusing to be moved from their place of inheritance and birth, and commended them in their stand against the violent application of the fascist laws of this self-imposed racist regime. They categorically rejected the whole idea of Bantustans as it had, according to them, been evident that implementation of the whole concept reeks of atrocities tantamount to human disregard. They also stated Black people could no longer afford to tolerate this, nor afford being sent from

pillar to post. Accused No. 5 prepared an invitation and programme for a national council meeting of BPC to be held in September, 1974 at Hammanskraal, referred to as a Semicon in the invitation. The invitation was headed "The inevitable liberation" and read as follows:

" Time has come; time is ripe and time is NOW for the Black-man to break the chains and seize the power which he for centuries has been denied. In the absence of power, the Black man lost his heritage which no doubt is his precious land, his birthright, his citizenship, his liberty and his wealth. This should now be regarded as the 'time of trials' through which the Almighty's chosen children had to go in order to be tested, tried, tempted and purged of unrighteousness so as to enter the promised land.

The re-awakening in the Black nation indicates that it is not merely possible to be liberated BUT it is INEVITABLE hence the call to seize the power.

The burning issue of 'THE INEVITABLE LIBERATION BY SEIZURE OF POWER' is long overdue, therefore there is need to act, NOW or NEVER. A seminar-conference will be held whereby a mandate will be sought from the Black people. Every Black-man, butcher, baker or candlestick maker who accepts the challenge should attend to voice his say.

As the semicon is the Black peoples' thing every participant will sit in a commission. Every

" participant will put forth his ideas. Come in all your numbers. March in multitudes ye beautiful Blacks."

At this semicon Singh was elected public relations officer.

// The following two poems "Afrika" and "The Final Solution" were included in the poems which S. Buthelezi had put on posters on the walls of BPC offices:

" AFRIKA

Afrika, My Afrika  
It is to thee I raise my song,  
It is to thee I cry for liberty  
and I must find liberty.

I am black and I am proud,  
I am insulted every day  
My people are scorned every moment,  
But the day will come  
when I'll be free of the yoke of a white man.

Black man, Black nation  
Arise, arise from the slumber  
Prepare yourself for the war  
We are about to start.

It's been a verbal war  
But now it should be practical.  
Break everything if possible  
For the liberation of a Black man is nigh.  
Shout, sing, be more Black than Black itself.

BY SIZAKELE NDLOVU "

" THE FINAL SOLUTION.

Arise you sons and daughters of Sunshine-Land  
Stand up you mighty warriors of Azania,  
LOOK around you:

Where are your former possessions?  
Where is your fertile land?  
Where are your wives and children?

Gone to Chicanery of smooth-talk,  
Robbed by use of cannon and bayonet,  
Abducted to be desecrated and raped  
Have you not had enough?  
Haven't your parents' supplications gone unheard?  
Haven't their questions gone unanswered?

" Haven't they been told that theirs belong to  
a new master?  
Who will rather fight than relinquish all?  
Now is the time to take up the spear,  
Let the song of the gun be heard far and wide  
And let the music of the bullet bring you  
relief  
To the battle-field/  
UHURU, KWACHA, U HURU.

THABO MOLEWA

TO SIPHO BUTHELEZI "

It was one of the stated projects of BPC to conscientize by means of the holding of rallies, and BPC being a mass movement, it was deemed very necessary to call mass rallies at various centres to propagate the aims of BPC and to kindle and maintain the spirit of liberation in the mass mind, while also engendering active support and following for the movement. It was considered imperative that BPC be seen and heard and that the commitment of the general body of the Black community to the struggle for freedom from White racist oppression be fostered in this way.

Frelimo, a political movement which had been engaged in an armed revolutionary struggle against the system in Mocambique, successfully concluded their struggle, and the government of Mocambique was to be handed over to them on 25th September 1974.

On 9th September 1974, accused no. 2, the secretary general, and Norman Dubasane, the publications director of SASO, prepared a press statement on the question of the accession of Frelimo to power in Mocambique, on behalf of SASO and made it available to the newspapers, but none of the newspapers published it. The statement is relevant because it is some indication of what the attitude of SASO was towards the Whites in this country. According to the statement, the Whites in South Africa had been thrown into a frenzy by the incidents in Mocambique and Angola. Their reaction, as would have been expected from the Whites in South Africa and Mocambique was purely that of people bent on maintaining an oppressive White minority system of government. According to the press-statement, negative reaction by the Whites in Mocambique and those in South Africa was perfectly symbolical of the maladjusted schizophrenics who refused to accept the inevitable reality. The press statement continued as follows :

"It is Mocambique that has ultimately through strain and stress managed to break the stranglehold of colonialism. Frelimo has spear-headed the liberation of Mocambique. It has not only liberated Mocambique but has saved Portugal from itself. The people of Mocambique can once again breathe the free air of freedom because of the French (sic) liberation movement."

To us Black South Africans, this is a revelation, that every bit of Africa shall yet be free. The struggle of the Black man against the oppressive system of South Africa shall yet be won. Portugal could not keep the

Black/.....

"Black man in Mocambique under perpetual subjugation and this should be a lesson to the South African Government. The Black people in South Africa have legitimate and genuine grievances. The South African Government is frantic, desperate and confused. This can be seen in their repressive legislations, the defence budget and the vague sense of security they are trying to assure the White electorate of. All of a sudden the once economically entrenched South Africa is being shaken to the roots. The dignity of the Black man has been restored in Mocambique and the White people are turning out to be what they truly are - violent people. The riots, stampedes and rampages reflect their true colours. They would rather die than abandon their safe and lofty position at the neck of the Black man."

Accused No. 2 felt that an organization like SASO should organize rallies on Black campuses to celebrate the liberation of Mocambique. In the light of the press-statement the inference is irresistible that he wanted to exploit the position by embarrassing the Whites and using the occasion to consolidate the position of SASO. SASO saw South Africa as belonging to Blacks alone and adhered to the policy of Africa for the Africans. It saw the struggle for liberation in South Africa as part of a broader struggle by other Blacks in Africa against colonialism and imperialism by Whites. This was an opportunity to show solidarity with the Blacks in Mocambique. Accused No. 2 discussed the idea of a meeting to celebrate the liberation of Mocambique with Mabandla of BAWU and said that he thought that BPC would want to take part in such a celebration and asked to be put in touch with members of the BPC executive committee. Accused No. 1, a past

public relations officer of BPC and the person who was really running BAWU offices in Durban, and who was, on his own showing, often consulted about EJC matters. thereupon went to see accused No. 2 at the SASO office. They discussed the possibility of organizing rallies at various centres in the country as a joint SASO-BPC affair. Accused No. 2 asked accused No. 1 to get in touch with members of the executive committee of BPC to find out whether they would participate in such a venture. Thereafter, on the 15th September, accused No. 2 attended an executive committee and staff meeting of SASO which was also attended by, amongst others, accused No. 3, the permanent organizer of SASO, accused No. 6, the national president of SASO and a member of the Turfloop branch of SASO, and several regional secretaries, and a formal decision was taken to hold such rallies throughout the Republic. Somebody mentioned the possibility that rallies could be banned and accused No. 2 put forward the idea that in such an event, other organizations in the Black community could then hold the rallies. As the different regions would have to be responsible for their own rallies, they could fall back on other cultural movements in the event of a banning. In Durban there was BAWU that could take over.

On 17th September, Colin Jeffrey, the vice-president of BPC and Mbewu of BAWU, booked Curries Fountain for the rally in Durban.

Accused No. 1 told Harry Singh, the then public relations officer of BPC, that BPC wanted to organize a 'Viva Frelimo' rally in order to show solidarity with the Frelimo because of the handing over of the government to Frelimo, and that Singh was to get accused No. 5, the secretary-general of BPC, who was attached to the head office in Johannesburg, to come down to Durban to help organize the rally there. He also told Singh that attempts should be made to get Frelimo people to address the rally. BPC

identified/.....

identified itself with Frelimo as freedom fighters who had fought against White oppression.

A few days later accused No. 1 told Singh that the rally was to be held on 25th September 1974, to coincide with the hand-over ceremony in Lourenco Marques and that it would be a joint venture of BPC and SASO. Rallies were to be held at Durban, Johannesburg, Capetown, Port Elizabeth, East London and Turfloop.

Because BPC and SASO had had a previous experience of being banned at a particular venue, it was decided, on the 20th September to change the booking of Curries Fountain into the name of BAWU, in terms of the contingency plan which had previously been discussed. During that day, accused Nos. 1,2,3,5, Colin Jeffrey and two officials of BAWU, Mrs. Lindelwa Mabandhla, the regional secretary of BAWU, and Mbewu met at BAWU offices and discussed how to set about organizing the rally. They decided that accused Nos. 2 and 5 would be the sole spokesmen for SASO and BPC respectively on the rally issue. In the afternoon, accused Nos. 1,2 and 5 went to various newspaper offices to inform them of their plans. The next morning, Saturday the 21st September, Bawa was entrusted with task of acquiring materials for making pamphlets and banners. Stencils for the pamphlets were cut and roneoed by accused No. 2 and Bawa. Singh assisted them for a little while. The banners were painted in accused No. 1's flat with the help of others. The following words appeared on the banners :

"Viva Frelimo Rally. Curries Fountain,

Wednesday 25th, 5.30 p.m.

Amandla BPC SASO Frelimo."

The first batch of pamphlets read as follows :

'Viva/.....



VIVA FRELIMO!! SUPPORT

FRELIMO!!!

Reactionary or Revolutionary??

Afrika is Black. South Afrika??

Your home is my home; Your country

is my country!!

Mocambique has been oppressed for

400 years. South Africa is oppressed for

the past 322 years.

How long are we prepared to wait?

How much longer??

Africa weeps for us. My country needs me.

Everybody is invited to the

"Viva Frelimo Rally" to be held at

Curries Fountain on

the 25th Sept., Wednesday.

Speakers are from : S.A.S.O.

B.P.C.

FRELIMO.

Sieze the Time."

The pamphlets were also translated into the Zulu language by accused No. 2.

A few of these pamphlets were distributed, but this was stopped because accused No. 1 thought the pamphlet was too intellectual and would not have the desired result. He then dictated what he thought would be a more appropriate and more efficacious pamphlet to his wife. It read as follows :

"Viva Frelimo!

Mass Rally

all Black People welcome.

Curries Fountain

This Wednesday 25th September 1974

" 5.30 - 6.30 p.m.

Speakers : BPC  
SASO  
Frelimo

Let us show solidarity with our Brothers in  
Mocambique."

At some time during the day, on 21st September, accused No. 4 arrived at the BAWU offices and was upset that he had not been informed previously of the decision to hold a rally. He was dissatisfied with the idea of holding a rally at short notice and with insufficient publicity. Accused Nos. 1,4,5 and Singh thereupon went to the SASO offices and impressed upon accused No. 2 the importance of effective publicity where the rally is to be held at short notice. During the discussions accused No. 1, in the presence of accused Nos. 3,4 and 5 asked accused No. 2 whether he had contacted the people from the Frelimo Government. Accused No. 2 replied in the negative and accused No. 4 suggested that since Singh had a passport he should personally go to Lourenco Marques to see if he could communicate with Frelimo. Accused No. 5 offered to accompany Singh although he had no travel documents. Accused No. 2 telephoned Bokwe Mafuna who was in charge of SASO in Botswana, to find out whether he knew any person through whom Singh and accused No. 5 could communicate with the Frelimo Government. Mafuna was not in his office, and a message was left for him. A car was hired for R100 and accused No. 1 provided R28 of this amount. Singh, accused No. 5 and Haroon Haziz left that night for Lourenco Marques. Near the border-post, accused No. 5 left the motor-car to cross over illegally and be met on the other side of the border-post.

On Sunday morning, Singh telephoned Bokwe Mafuna to find out whether he knew anyone in the Frelimo Government and he referred Singh to a person in Lusaka, whom he then telephoned with-

out success. Singh and the two others returned to Durban at about 11 a.m. on Wednesday 25th September, without any Frelimo speakers, and had heard on the car-radio on the Tuesday night of the 24th, that the rally had been banned.

News about the rally appeared in Sunday papers. The report in the Sunday Times was headed "SASO invites Frelimo to S.A." and read as follows :

"A Frelimo leader, from Mocambique, will be asked to address a pro-Frelimo rally at Curries Fountain, Durban, on Wednesday, the day on which the new Frelimo Government takes office in Lourenco Marques.

The rally is being organised by the South African Students' Organisation (SASO) and the Black People's Convention (BPC). Similar rallies are planned for Johannesburg, Cape Town and Port Elizabeth.

Mr. Muntu Myeza, SASO's secretary-general, said yesterday that the identity of the Frelimo speaker would only be disclosed after his arrival in South Africa.

"We do not want to risk the possibility of his being stopped at the border. He will hold a Press conference on his arrival in Durban.

"The rally is being held to show our solidarity with the people of Mocambique who have been freed by Frelimo."

Mr. Myeza said that a SASO representative, already in Lourenco Marques, had approached the Frelimo leader.

"Another of our men left for Lourenco Marques today in the hope that we will be able to get three additional Frelimo speakers for Johannesburg, Cape Town and Port Elizabeth."

The organisers say they expect that the rally, to be held between 5.30 and 6.30p.m., will be attended by

several/.....

"several thousand people."

On Monday morning, the 23rd September, the newspapers reported that SASO/BPC were smuggling Frelimo speakers into the country.

The police taped the telephones of the SASO and BAWU offices. The latter offices were being used by BPC. During that morning accused No. 2 spoke to Bokwe Mafuna in Gaborone, Botswana, on the telephone, and ascertained from him that the persons who had gone to Lourenco Marques had telephoned him the day before to enlist his assistance. When he telephoned them back to Swaziland where they were at that time, they had already left. Mafuna asked accused No. 2 to make sure that he did not tell other people where this place was where the other people were in Swaziland.

On Tuesday morning, the 24th September, a report appeared in the Natal Mercury that the Durban rally had been banned, and that it was understood that the Government also planned to ban similar meetings which were to be addressed by Frelimo leaders in Capetown, Johannesburg and Port Elizabeth. According to the report, the Government's decision to step in was announced the night before by the Minister of Justice only hours after reports had been received by him that irate Whites were threatening to break up the Durban rally. The announcement by the Minister was along the following lines :

"The Government has taken note of the mass meeting being organized in Durban by SASO and the Black People's Convention for September 25th, and of the fact that the manner in which it has been advertised evoked strong emotional reaction among certain sections of the public. I therefore announce that the necessary steps will be taken/.....

"taken to ensure that the meeting will not take place.

The Government will, as in the past, take any steps which may be necessary to maintain the peace and good order."

Accused Nos. 1 and 2 read the report together and after considering the provisions of the Riotous Assemblies Act, came to the conclusion that there had not yet been a proper banning of the SASO/BPC rallies. According to accused No. 2, he and accused No. 1 consulted two advocates at lunch-time and they advised them that they were quite entitled to go ahead with the rallies. Accused No. 2 thereupon prepared a press-statement in the following terms :

"Joint Press Statement from BPC and SASO on the Frelimo Rallies.

We are not aware of any banning. We couldn't care less if it (is) banned. We are going ahead at all costs with all the rallies nationally. The people's will shall not be suppressed by a foreign settler's regime. The very fact that Whites are said to be irate against the rally, shows that they wish to continue our oppression and have no desire whatsoever to recognise the dignity of the Black man."

This statement appeared in the newspapers except for the last sentence thereof.

Accused No. 2 cannot be correct about the time when they consulted the two advocates, because late that morning, and obviously after accused No. 1 and 2 had prepared the press-statement, accused No. 2 read the press-statement to newspaper reporters over the telephone, as appears from the taped telephone conversations. The reporter of 'The Post' said during the telephone conversation with him that he had been to Curries Fountain and

was/.....

was there told that the sports grounds would not be available if the rally was banned. Accused No. 2 replied: "Look, I am telling you everything is going ahead as planned." The reporter then asked for the names of the Frelimos and accused No. 2 merely replied: "I cannot." That morning one Aubrey Kumeta telephoned accused No. 2 from Hammersdale and congratulated him on embarrassing the system, and continued to say; "You have exploited it very well...We should know where B.J. stands now.... Ja, a very grand thing which you did."

Accused No. 2 read to him what appeared in the Natal mercury and what the Minister had said, inter alia, that the rally had evoked emotional disturbance in the White Koekemoers. He then proceeded to explain to him that the Law had not been complied with and that there could consequently be no effective ban. He continued to say: "Right, what we're going to do, we're going to push it until the very last moment. We want to crack them completely."

After that accused No. 2 spoke on the telephone to Gerald Phokojoe, the regional secretary of SASO for the Transvaal in whose area Turfloop fell, and read out to him his press-statement and asked him to get the reporter of The Star to telephone him. He explained to Phokojoe that the rally was not legally banned, and when Phokojoe asked him whether he consulted the legal advisors, he untruthfully replied that he was sitting with them at that very moment. He wanted the reporter of The Star to telephone him because a report had appeared in The Star that members of SASO along the Reef had expressed total disagreement with the organization's leadership and considered its action in announcing that the Frelimo rallies would be held that week as childish and unnecessarily provocative.

Accused/.....

Accused No. 1 took over from accused No. 2, and continued the conversation over the telephone by telling Phokojoe just to go ahead with all the plans and not to waste time. He also said: "These guys can't stop us with anything....Mobilise all the resources.... You know we must eh,....its an act of warfare, this, and we must retaliate in a like manner you know. You, you can expect further instructions from Muntu you know, accord to call through from time to time."

.. After lunch accused No. 2 spoke to Nat Serache, a reporter of the Rand Daily Mail in Johannesburg, to get the information which he had asked Serache during the morning to obtain for him. That morning Serache had evidently read out to accused No. 2 what was in the Rand Daily Mail about the banning of the rallies. That afternoon Serache read out to him what had appeared in The Star under the headlines : "Rally banned in Public Interest." The effect of the report was that there was a pro-Frelimo rally planned for Durban on the following day which would be prohibited by a proclamation in terms of the Riotous Assemblies Act which was due to appear in a special Government Gazette that afternoon. That was confirmed in a brief interview with the Minister of Police that day in Capetown, who explained that he was acting in terms of his responsibility to maintain law and order. The Minister confirmed that he had received a telegram from Durban in which he was told that if he did not stop the rally, thousands of Whites in Durban would do so, and stated that that was not the only consideration on which he based his decision, he took all sorts of factors into consideration. The press-statement was then referred to in the report to the effect that the rally was going ahead, in defiance of the banning order. This was reported to be the latest development by the announcement of Muntu (accused No./.....

No. 2) that SASO and BPC were trying to smuggle four top Frelimo men into South Africa, to address pro-Frelimo rallies in Durban, Johannesburg, Capetown and Port Elizabeth.

In the report reference is made to reports from The Star's Durban correspondent that mystery surrounded the reported smuggling into Durban of the four Frelimo leaders for the rally and the fact that officials of SASO and BPC would not admit whether the Frelimo men were in Durban or not. Serache was asked by accused No. 2 whether he had a copy of "The World" newspaper with him, and Serache read out the headlines to him. One headline was "Frelimo men in S.A. - Claim." "The World" carried the same report as The Star, and in addition, referred to the fact that when the Durban office of SASO was telephoned, a spokesman claimed that the four Frelimo leaders had already arrived in South Africa and were meeting the SASO leaders in Durban. Muntu (accused No. 2) was meeting with the Frelimo leaders and was discussing the situation. The meeting was expected to last about three hours and a statement was to be issued after the meeting. If the rallies did take place, it was expected that the Government would act under the Riotous Assemblies Act.

accused No. 2 told Serache about the big rally in Capetown and the rally at Turfloop and asked him which of the two he would like to cover. He gave him the telephone number of Danile Landingwe in Capetown and the telephone number of accused No. 6 at Turfloop. Serache asked whether the Brothers from Mocambique would be there and accused No. 2 replied that they should keep that very close and suggested that over the telephone or anywhere else they should not say who would be there. They should just say: "They are there." accused No. 2 said that the Durban rally was going on and that applied to all the other rallies and continued: "These fools cannot tell us what to do, man. They've/.....



"They've gone too far.....We're going to bullshit them." Serache asked whether the people eventually held a press conference; (here obviously referring to the Frelimos) to which accused No. 2 replied that the banning under the Riotous assemblies Act meant that the conference as planned would be affected thereby and they had decided against it.

Accused No. 2 then wanted to know from Serache what the people were saying about their going on with the rally. Serache replied that they were excited and looking forward to that time. Accused No. 2 continued by saying that by this time they were shaking them to the roots. He further said that he was wondering what was going to happen. They were going to have a very big thing the next day and this of course meant that he would have to go to jail for a year or something like that. They would arrest him for publicising the rally after it had been banned and he would be liable on conviction to be sentenced to a year or a fine of R100. They would see it to the finish because if they chickened out - called it off - it would be very bad. They wanted to call their bluff, they must come out in their true colours. He said they wanted to see them shooting them. Accused No. 2 repeated that it would be unwise to divulge the names of the Frelimos before they had decided to give them up. For security reasons their names must be kept. Serache asked him about the Turfloop rally and accused No. 2 said that it was headed by accused No. 6. In the course of the conversation accused No. 2 repeated that they had pushed them too far and fast, and that they must be cursing him. Accused No. 2 in evidence said that the 'them' referred to the newspapers and the Government, but it is clear from the context that the 'them' cannot refer to the newspapers.

Before/.....

Before he concluded his conversation on the telephone, accused No. 2 again referred to the "Very Big Thing" they were having in Durban and that the following day was "D-Day". That same afternoon accused No. 2 spoke to Danile, the regional secretary of SASO in Capetown, in whose area the University of the Western Cape fell, and asked him how far they were with the arrangements for the rally. He replied that the people in Capetown had read in the papers about the banning of the rallies, but that he had insisted that he knew nothing about the banning, officially, and was not concerned with what was reported in the Press. He was, however, waiting to hear whether they would still have the use of the stadium. Accused No. 2 referred him to his press-statement, and Danile assured him that they were going on with the rally. He told Danile that the papers were saying that they were smuggling Frelimos into the country and that they had them in trouble. Accused No. 2 said if they chickened out now it was going to take a very long time to organize such a big thing again because it would spoil their image. Accused No. 2 promised to inform Danile of the latest developments regarding Frelimo if Danile telephoned him early the next morning.

That afternoon accused No. 2 spoke over the telephone to Mapetla, the regional secretary of SASO in the Eastern Cape, in whose area the Federal Theological Seminary and Fort Hare fell. He asked accused No. 2 how far they were with their arrangements for the rally and accused No. 2 said that they were at a very precarious stage. The people wanted to go to the rally and they could not be stopped. Mapetla told him about the special Government Gazette and accused No. 2 said that according to the legal experts, the rally was quite legitimate if it was not addressed by people who were affiliates of SASO or BPC. Mapetla

questioned/.....

questioned this view and accused No. 2 said that they beat them (meaning the authorities) to it although he could not tell him now. They had anticipated this and everything had been arranged in such a way that they could act legitimately. He then told Mapetla that another group was taking over the rally and the venue itself. The onus of proof was very high and they would not be able to show that it was a SASO/BPC rally. He refused to disclose to Mapetla which group it was and told him that they were having a press-conference at 7 p.m. Mapetla wanted to know whether the fellows (Frelimo) were there and accused No. 2 replied "Yes and no." Mapetla reported that he was not able to organize a rally in the Eastern Cape. Accused No. 2 telephoned these regional secretaries because they had attended the executive committee and staff meetings in Durban when it was decided to hold the rallies.

That same afternoon accused No. 2 spoke to Thomas Manthate over the telephone. He was the vice-president of SASO up till July 1974 and lived in Johannesburg. They discussed the report in The Star about the disagreement amongst the members of SASO on the Reef and he reported that they were struggling to get a venue for a rally on the Reef. Accused No. 2 told him that they were continuing with everything and that they were having a press-conference that evening. He accused the newspapers of being untrustworthy and that they had been doing their best to get the rallies banned. Accused No. 2 tried to impress upon him that the rally was quite legal if it was addressed by people who did not belong either to SASO or BPC. He also referred to the difficult onus of proof. He represented to Manthate that they had a team of legal experts working on the matter and that they were of the view that the rally was legal, and he told Manthate to go on with their rally. Manthate indicated that they would go on with the rally/.....

rally even if they had four, five or six people.

Late that afternoon accused No. 1 sent Bawa to ask Colin Jeffrey to book the Kajee Hall for the rally on the following day as they feared that they would not be allowed to use Curries Fountain because of the attitude of the Minister of Police. The following day they reconsidered the position and decided to cancel the Kajee Hall booking and proceed with the rally at Curries Fountain.

During the morning of the 25th September 1974 accused No. 2 telephoned Nat Serache to find out what the press coverage was with regard to the rallies. He got one Gordon on the telephone who told him about the official banning of all meetings of SASO and BPC for a month. The banning was announced on the radio in the news bulletins at 6 p.m. and 7 p.m. the night before. He gave accused No. 2 the full terms of the banning order. Accused No. 2 then asked him whom they had to cover the rallies for their newspaper. He replied that they had the Cape Times to cover the Capetown rally and the Natal Mercury to cover the Durban rally. He asked whether they were going on with the rallies and accused No. 2 replied in the affirmative and gave him the times of the rallies. Gordon said that Serache would cover the Turfloop rally and asked for the names of the Frelimos. Accused No. 2 said that at that moment they could under no circumstances do so. He asked Gordon to telephone the Johannesburg office of SASO to find out when and where the rally there was to be held, so that they could cover that as well.

The banning order which was published in the Government Gazette under a Government Notice on 25th September 1974 read as follows :

"Whereas I, JAMES THOMAS KRUGER, Minister of Justice, deem it necessary for the maintenance of the public peace, I hereby prohibit, in terms of section 2(3)(b) of the Riotous Assemblies Act, 1956 (Act No. 17 of 1956), any gatherings convened, supported or approved, or the attendance of which is encouraged or promoted, or in respect of which it is intimated or professed that it is convened, supported or approved, or that the attendance thereof is encouraged or promoted, by or on behalf of the South African Students' Organization or the Black People's Convention, everywhere in the Republic, up to and including 20 October 1974.

Dated at Cape Town this 24th day of September 1974.

J.T. KRUGER

Minister of Justice.

at about 10 o'clock that morning accused No. 1 telephoned Mayatula at Mapumulu and told him that they were waiting for him. He must come, it was very urgent, the movement was going to die otherwise. That day they were either going to make or break the

movement/.....

movement. Mayatula's bus left at 1.30 and that was to get him to Durban at 6 p.m. Accused No. 1 then asked whether Dhlamini could not drive him to the station. Mayatula said he would try his best to be there at 5 o'clock and he was asked to come to BAWU or SASO offices.

Thereafter, accused No. 1 telephoned accused No. 4 and told him that they had been waiting for him since the day before. Accused No. 4 said that he had been to BAWU and SASO and could not find accused No. 1. Judging from the remark of accused No. 1 he clearly did not believe accused No. 4 and told him that he must come immediately. Accused No. 4 was on duty the whole day and said that he could not come. Accused No. 1 replied that they either make or break now. Accused No. 4 asked him what they had decided to do, to which accused No. 1 replied very affirmatively that they were going ahead. Accused No. 4 said that the newspapers had attempted to intimidate the public, to prevent them from attending the rally. Accused No. 1 said that it depended on the number of people who turned up whether or not they were going on with the rally. They were going to start the rally at 5.30 and if there were only a few people present, they would say that the rally was banned, but if there were many people, they (obviously referring to the police) would stop it. Accused No. 4 was of the view that people would only arrive in big numbers by 6 o'clock, and accused No. 1 said they would only have to wait and see. Accused No. 4 asked whether accused No. 1 had prepared a statement in the event of the rally being cancelled, or in the event of accused No. 1 having to go far away. Accused No. 1 replied in the affirmative. The two of them then discussed the statement in which the blame was to be cast on the authorities, whatever happened. It was agreed that they should have a press-conference/.....

conference. Accused No. 4 asked whether accused No. 1 had heard from the persons from Lourenco Marques. Accused No. 1 replied in the negative and accused No. 4 said that it was necessary that they have something good to say if these people do not come from Lourenco Marques. The two of them discussed what could be said in that connection. Accused No. 1 insisted that accused No. 4 come to the office because they were doing some drastic things which could not be discussed on the telephone.

The rally was organized by accused Nos. 1, 2, 3, 4, 5, Bawa, who gave evidence in this case as an accomplice, and an active member of BPC and assisted in the BAWU offices, Singh and several other active members and supporters of BPC. The rally was widely advertised as a 'Viva Frelimo' rally with approximately 15 banners, which were hung at strategic places to insure the maximum publicity, with approximately 11,000 pamphlets which were widely distributed in townships and at two sports-grounds where sporting-events were in progress, with megaphones at places which included a cinema for Blacks, and with various reports in the Press, to which reference has already been made.

Accused No. 5, Singh and Haroon Haziz returned to Durban at approximately 11 a.m. on Wednesday 25th September. They had heard about the banning of the rallies on the radio the night before. In Singh's flat they read about the banning in the newspapers. According to Singh, he and Accused No. 5 were against the holding of the rally and went to the BAWU office together with Haziz, where they met accused No. 1. They asked him to accompany them to the SASO office where they told accused Nos. 2 and 3 that they were against the holding of the rally. They felt that BPC should pull out of the rally because of the banning order, since they were of the view that if they carried on with the rally, there would/.....

would be a confrontation and unnecessary injury to people. The attitude of accused Nos. 1, 2 and 3 was that they should go on with the rally irrespective of the banning order. Because accused No. 5 and Singh remained adamant, accused No. 1 suggested that they consult with accused No. 4. They all went to accused No. 4's room in the Doctors' Quarters at the Hospital during the lunch-hour. Accused No. 5 and Singh explained their attitude to accused No. 4 who laughed and said they were both scared. It had been decided previously that accused Nos. 1, 2, 5 and Singh and a member of Frelimo, if he could be obtained, would be the speakers at the rally. Accused No. 1 then said that the rally would go on irrespective of the banning; there would be a confrontation at the rally and he was prepared to sacrifice himself by addressing the rally. Accused No. 2 then said that he would be prepared to address the rally and be sacrificed, and they all agreed it would be better if accused No. 2 addressed the rally. Accused No. 5 and Singh were disappointed by the attitude of the majority that the rally should go on, but abided by the decision. They were to issue a press-statement that evening, and they then proceeded to discuss what the statement should be if the rally went on and what it should be if there were no rally. Both accused Nos. 2 and 4 made notes. Whatever happened, the blame was to be put on the authorities.

It was ultimately decided that if there were a crowd of more than 500 people, then accused No. 2 would definitely address the rally, but if there were less than 500 people, then nobody would be sent to address the rally, and in the press-statement it would be explained why the rally was not addressed by the organizers. Dr. Joel Matsipa, also known

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as China, was present at the discussion, and accused No. 4 instructed him to take up a position near Curries Fountain at 4.30 that afternoon, and if there was a huge crowd to attend the rally he was to telephone the SASO office where they were all to wait. They returned to the SASO offices and when China had not telephoned by 4.30 p.m., accused No. 3 and Singh went by car to Curries Fountain to see if there was in fact a crowd and whether they all should go there or not. According to accused No. 3, he and Singh returned and reported that there was a crowd of 3,000 people.

Just before 5 p.m. Rev. Mayatula arrived at the BAWU offices. He was very upset that accused No. 2 had in the press-statement adopted the attitude that the rally was going <sup>on</sup> in spite of the banning, and he insisted on being taken to accused No. 2. Accused Nos. 1, 5 and Singh accompanied Mayatula to the SASO office where he saw accused Nos. 2 and 3. Mayatula asked accused No. 2 why he had made such a press-statement and he replied that he was the secretary-general of SASO, and had the right to do so. Mayatula said that the rally must not go on as it was banned and there would be a confrontation with the police and the authorities, and BPC was not ready for such a confrontation at that moment. It would only mean unnecessary injury to people. Mayatula went to a wash-basin in the next office and, as it was drawing close to the time when accused No. 2 was to address the rally, accused No. 1 suggested to accused No. 2 that he should appease Rev. Mayatula by saying that he would not address the rally but merely go there to disperse the crowd. When Rev. Mayatula returned to the office, accused No. 2 told him this. Accused No. 1 and Bawa left for home and Singh then drove accused

Nos. 2, 3 and 5 and Rev. Mayatula to Curries Fountain, and stopped a little distance away from it.

Accused Nos. 2 and 3 got out of the motor-car and accused No. 2 went towards the crowd to address the people. According to Singh, there were 700 - 900 people there, and after three or four minutes accused Nos. 2 and 3 came running back. Accused No. 2 said that he only had time to shout 'Power, Power!' and that he was afraid of the dogs that had been held by the police.

Singh took accused Nos. 2 and 3 and Mayatula back to the SASO office and accused No. 5 and Singh then went to Singh's flat. Singh and accused No. 5 returned to the SASO office for the press-conference at 7 o'clock. On their arrival at the SASO office, the police were there under the command of Major Stadler. According to Capt. du Toit, they found accused Nos. 2 and 3 and Rev. Mayatula and Mabandla in the office. Accused No. 2 was sitting behind the desk with a document in front of him, which he was busy preparing. Capt. du Toit wanted to seize the document but accused No. 2 caught hold of his hand and tried to prevent his taking the document. Major Stadler then attached the document. The document is in the handwriting of accused No. 2 and reads as follows :

"Frelimo, SASO and BPC - joint consultation.

Because of the situation as it now is, is that the white group has made a mountain out of a molehill. These rallies are peaceful rallies, where the people congregate to express their support and solidarity at the achievement of the Frelimo. The emotional wrecks like the Koekemoers and the political desperados/....

"perados have decided that their nervous systems are not capable of containing the sight of Black People rejoicing at the achievements of their Brethren. It is for this reason and a number of others known to the public and known to us that we have decided that our guests of honour excuse themselves from addressing the rallies in the country and they have since left. However, besides their absence the rallies are going ahead despite the threats from the violent irate whites.

We are in receipt of irrefutable information that the white civilians and several white mercenaries have mobilized themselves with the intention to come and massacre our people and disrupt our meetings.

At this moment of jubilation and bliss in Africa at Frelimo's victory we are not prepared to accord the bigots of debauchery to turn this day celebration into a day of mourning for them. We have exhausted our efforts in persuading the people not to come to the rally in Curries Fountain without success. The people are sick and tired of being oppressed by the moribund bully called the South African Government.

We carry the mandate of the people and represent the legitimate aspirations of the people. We stand dauntlessly unflinching in the midst of white hostility and their government.

However, now that Jim has decided to ban the Rallies on Tuesday a number of things stand out. The Black Community now realizes exactly where they stand with

regard/.....

"regard to the white racist regime, the bordering free african states and themselves. The african state are themselves aware. The minority government of South africa has polarized itself completely from the Black Community in South Africa and the Black world. 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 truly believe in, can there be any truth in what anybody sent by the very Govt. which suppresses the peoples initiative says on behalf of the people.

It is ironical that the MFM (Movement of Free Mocambique) rallies of refugees from Mocambique are allowed to proceed when those of the people who belong to the land and whose land is theirs by birth are banned. The Black People have not at any stage taken up arms against the regime but we have been maimed, massacred, butchered, assassinated and emasculated of our dignity and manhood.

The movement of the People in their struggle toward total liberation is legitimately represented by the Black Peoples Convention and the South african Students Organization. It is therefore the duty of the Black Movement to exhaust its energies in exposing the atrocities and filth perpetrated against the Black People and with all the strength they can muster to try and wipe it out."

The/.....

The portion underlined by me was cross-hatched, presumably indicating that it was deleted. Accused No. 2 said that he had prepared this statement in anticipation of the arrival of Singh, accused No. 5 and Haziz with representatives of Frelimo. It contained points that he thought worthy of discussion with the representatives of Frelimo and he also wanted to use the statement to explain to them what the rallies were about and to offer them an excuse why SASO and BPC could not have them as speakers at the rally. The statement speaks for itself, and was obviously intended to provide an excuse why Frelimo speakers were not available for the rallies after the position was mis-represented in the Press that they were in fact in the country and available to speak at the rallies. The statement or part thereof was written on the Wednesday, the day of the rally, because it refers to the fact that the Minister had banned the rallies on the Tuesday. It is more likely that this statement was written in accused No. 4's room on the Wednesday for purposes of a press-statement to be released either before or after the rallies. Indeed, accused No. 4 told accused No. 2 at 6.30 p.m. in the telephone conversation to which reference will still be made, to excise that portion of the statement which was to say that they tried to persuade the people from going to the rally, and that portion no doubt is what was cross-hatched in the statement found with accused No. 2 immediately before the press-conference was due to be held. According to accused No. 5, press-reporters were telephoned by accused No. 2 informing them of a press-conference at 7 o'clock, after they had returned to the office from accused No. 4's room. It was arranged over the telephone that accused No. 4 should also be present at the press-conference, and since accused No. 2 had the statement in his hands shortly before 7 p.m. when the police came on to the scene, all the indications are that he wanted to use the statement as the basis for his press-conference.

On the 11th October 1974 accused No. 4 was arrested at the King Edward Hospital in Durban, by Lt. Rossouw, and

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the following document, in his own handwriting, was found amongst other papers in his pocket :

" Another page in the history of the struggle for liberation in Southern Africa has been opened. The oppressed black masses are perusing it and shall interpret it appropriately. We of the Black People's Convention and SASO pledge ourselves the Black oppressed to lead them in whatever direction they may now decide.

The time is now and we shall seize it. We are the servants of our people and we shall carry our responsibility without flinching.

Black people have again been placed at the receiving end of a merciless and sadistic response operating under the guise of law and order.

Black people who merely wished to rejoice with their brothers in Mocambique who have ultimately unchained themselves from slavery. Our people, as always, wished no harm to anyone."

When they were discussing the fate of the rally accused No. 4 also made notes in his room and the

indications are that the statement found in his possession contained the notes which he wanted incorporated in the press-statement. He says that he was merely doodling when he wrote that statement. There is nothing in the statement that suggests that it was a doodling operation - it is one continuous statement. It obviously has bearing on the banning of the rally and puts the blame on the authorities in the manner suggested by him in the telephone conversation with accused No. 2, after accused No. 2 had returned to the SASO office from the rally.

Before/.....

Before dealing with the evidence of what happened at the rally, it is necessary to mention that the version of accused No. 2 is in conflict with that of Singh as to what happened in accused No. 4's room and also when Mayatula arrived at the office. The version of accused No. 2 is that when accused No. 5 and Singh returned from Lourenço Marques they were in the SASO office and they tried to give a report of what had happened in Lourenço Marques. He suggested that they should go to a place where they could sit down and talk, and they then decided to go to accused No. 4's room. He wanted to get away from his office because newspaper reporters were crowding them there. At the room of accused No. 4, accused No. 2 reported to them what had happened in their absence and the question arose as to how they were to withdraw with grace from holding the rally and at the same time protecting the image of the organization.

Singh was against the Frelimo because of his experiences in Mocambique, but suggested that they should go on with the rally. The response was that they could not go on with it. It was ultimately agreed that accused No. 2 should go to Curries Fountain and disperse the people. An explanation for this decision was to be given at the press-conference which had been arranged for 7 p.m. They discussed what they should say at the press-conference and accused No. 4 made a note of the points. Accused No. 2 subsequently took over from him because he was the one who was going to do the talking. The two of them wrote on separate pieces of paper. Dr. Mapitsa said that he would be going to Curries Fountain and would telephone the office to tell accused No. 2 if it was necessary for him to go to Curries Fountain. They were all

hoping/.....

hoping that no-one would turn up at Curries Fountain, as it would save them the trouble of going there, and if there were people, accused No. 2 was to go there, as he felt it was his duty to go and disperse the crowd. It would also give them the opportunity of not losing the initiative. In their press-statement, they were going to criticize the newspapers about their reporting, and the Minister of Justice for the way in which he had handled the banning. He should not have banned the rallies so late.

Back at the SASO office, Mayatula arrived and complained because accused No. 2 had publicized the rally on behalf of BPC. They explained to him that accused No. 2 did so because accused No. 5 was not available. Accused No. 3 and Singh told him that there were people at Curries Fountain. Singh then took accused No.s 2, 3 and 5 and Mayatula there. They stopped a quarter of a mile from Curries Fountain gates and accused Nos. 2 and 3 got out of the motorcar. He told accused No. 3 to remain behind because of the decision in accused No.4's room that only he should go to Curries Fountain. He approached Curries Fountain up Winterton Walk. The people at Curries Fountain were singing, dancing and making whoopee, it was jolly, some were hugging each other. Accused No. 2 got into the crowd and Colin Jeffrey, Norman Dubasane and others came towards him and started hugging him. The crowd was a little west of the gates, more or less on the apron between the road and the gates. Other people also came towards accused No. 2, wanting to see what was going to happen. - Colin Jeffrey then told him that the order to disperse had just been given. Accused No. 2 asked him how long ago, and he gave him the impression that it had been given a few moments before. He could/.....



could not hear what period of time the police had given them in which to disperse. Dubasane also did not hear. Accused No. 2 then said: "Let us get the people away from here. Let us move off." He turned to face the people and shouted 'Power' and the people responded. Accused No. 2 started a song, 'Shosholoza' and the people joined in and started to move away, down Winterton Walk.

According to accused No. 2, he was taking them away from the vicinity of Curries Fountain. After they had moved about 12 paces, people in front of accused No. 2 started coming back and they bumped into them. The people in front of accused No. 2 then separated, and through the opening he saw Captain Welman and policemen with dogs. He thought that was the reason why the people in front turned back, and he used words to the effect "You cannot stop us from going away" to Capt. Welman as he passed him. At that stage accused No. 2 was moving diagonally across the road away from Curries Fountain, towards an embankment. There were dogs behind him, and he and other people ran up the embankment onto a field, towards Singh's motorcar.

The version of accused No. 2 as to what happened in accused No. 4's room and also when Mayatula arrived that afternoon is not altogether consistent with that of accused Nos. 1, 3 and 4. Accused No. 2's version is furthermore inconsistent with his attitude in conversations on the telephone, to which reference will be made. In cross-examination, his Counsel put to Singh that Singh's evidence about the part China had to play, was a figment of his imagination. It was also put to him that Mayatula came to Durban on his own accord, while it will appear from a telephone conversation between accused No. 1

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and Mayatula, that he was urgently summoned to Durban. Accused No. 2's account of what happened at Curries Fountain is inconsistent with his own account to Singh and in a telephone conversation with accused No. 4. It is furthermore inconsistent with the line of cross-examination pursued by his Counsel and the weight of evidence of what actually took place at Curries Fountain, to which reference will still be made. The Court accepts Singh's version, which is corroborated by the circumstances and the tape-recordings of conversations which accused No. 2 had on the telephone. The Court rejects versions which are inconsistent with Singh's version. The version of accused No. 4 is also inconsistent with his attitude on the telephone when he spoke to accused No. 2. The reason given by Singh as to why they went to accused No. 4's room commends itself for the following reasons. Accused Nos. 1, 2 and 3 were in favour of continuing with the rally. Of the three, only accused Nos. 2 and 3 were members of an executive, namely, of SASO. Accused No. 5 and Singh were against the rally and they were members of the executive of BPC. Both accused Nos. 1 and 4, although not members of the executive of BPC, were, on the evidence, extremely influential in BPC. In the circumstances, accused Nos. 1 and 2, who were keen to continue with the rally because of their attitude in the Press and towards the organizers of the other rallies, would have had recourse to accused No. 4, since they knew that he was in favour of holding the rally. There is nothing to commend the versions of accused Nos. 1 and 2 that they wanted to evade the Press at the office, because, on the evidence, the Press-reporters caused them no trouble that evening when they were to hold the press-conference at 7 o'clock. Press reporters and photographers/.....

photographers were there but did nothing to obtrude/on their privacy when they were preparing for the Press-conference.

The telephone conversations will also show the falsity of the versions of accused No. 1, 2, 3, 4 and 5 as to the decision arrived at in accused No. 4's room.

at about 4 p.m. on the day of the rally, that is, after accused Nos. 1, 2, 3, 4 and Singh had the meeting in accused No. 4's room, and about one and a half hours before accused No. 2 went to Curries Fountain, accused No. 6, the president of SASO, telephoned accused No. 2, and if they had in fact decided not to go on with the rally, one would have expected him either to discuss the decision with the president of the organization or, at least to have told him about the decision. Nothing of the sort happened. His attitude was that they were going on with the rally. accused No. 6 reported on the success of the Turfloop rally. He said that they were feeling good and that they had come back from a small rally. He had Nat Serache with him, and most of the 'things' would come through the Press. They were still sorting out how the story should go. He was not going to say anything that would expose them to the risk of the Minister saying that they had organized the rally. They were doing it on the basis that it had been done on student level, and it was a success. Accused No. 6 said in evidence that by saying that it was a success, he meant that they sang the national anthem. This is inconsistent with the context of the conversation. He proceeded to tell accused No. 2 that there were policemen with tear-gas, some 15 students were injured and there was a lot of throwing of batons. The police locked some students in their van and they had to claim the students back, and at that very moment they were all released. Thereafter they had to order  
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the police to leave them because it was a university, and they then left. He was asked how many students were arrested, and he gave the following reply: "They, they, they they locked, eh, they some they, they took some students inside their van, arrest." In the light of the evidence that was led about the rally, he was clearly exaggerating. Only three students were arrested, and in the context of his account to accused No. 2 of what had happened at the rally, he clearly did not want to tell accused No. 2 how many students were arrested. He continued to tell accused No. 2 that the Rector came on the scene and they called him to order. Accused No. 2 thought that was beautiful. Accused No. 6 then asked about the rally in Durban and accused No. 2 replied that they were waiting for half past five for the rally to go on. Accused No. 2 asked accused No. 6 who had addressed the rally at Turfloop, and he replied that he had, and that he did not address the rally on behalf of anybody. He only told them that he was a student concerned with liberation. Thereafter a woman addressed the meeting and they were stopped by the police before other people could address the meeting. They were given orders to disperse within 15 minutes, and then followed the whole story of the casualties, but in any case the whole thing was a success. Accused No. 2 thought it was beautiful. Serache then spoke to accused No. 2 and reported that the Alsations were desperate, wild, at Turfloop. The police had been tear-gassing people, baton-charging them and all that. Serache then asked how things were in Durban, and accused No. 2 replied that they were alright, they were just waiting for half past five. Accused No. 2 said that the authorities had banned the organization, SASO-wise and BPC-wise, but legal experts said that the meeting was/....

was completely legal if persons other than from SASO or BPC addressed it. He also told him that they were having a Press-conference at 7 o'clock that evening. Accused No. 2 told Serache to blast the occurrences at the rally all over the newspaper. Serache responded that these things were violent, he had heard shots being fired while he was still at the gate, and had had to leave all his equipment outside. He had somebody inside who took all the pictures. He had to take the pictures while Serache was listening to what the allegations were saying. Accused No. 2 told him to plaster the photos all over the place. He asked whether 15 students were injured, and Serache answered that he did not really know, but the one who had been taken to hospital was one Peter Tsi. Accused No. 2 wanted to know whether the injuries were caused by bullet-shots and he replied that <sup>Tsi</sup> X was injured with a baton, and that three students were arrested. The students then said that if they did not release the three students, they were not going to allow them to be arrested. Both accused No. 2 and Serache agreed that it was truly a victory for the Black people.

At about 5 o'clock Mehlomolo, an assistant of accused No. 5 in the BPC office in Johannesburg, spoke to accused No. 1 on the telephone. Accused No. 1 asked him whether they were going on with the rally. He replied in the affirmative and accused No. 1 said they must just carry on and mobilize the people there. Accused No. 1 said that they were having a Press-conference on 7 p.m. He repeated that they must mobilize all the people in Johannesburg so that they should be in a state of turmoil.

At 5 o'clock, Joel Mapitsa, also known as 'China' and as 'Gong', telephoned the BAWU office and spoke to

Lindelwa/....

Lindelwa Mabandla. He said that the crowd was about 300 and that the whole force was out there. Mabandla asked whether he meant the 'pigs' and he replied that the 'pigs', the whole White force, was there. Mabandla said that the group were on their way there.

Also at about 5 o'clock accused No. 4 telephoned the SASO office and Ahmed Bawa answered the telephone. Accused No. 4 wanted to speak to accused No. 2, but as he was busy, he spoke to accused No. 3. He wanted to know what was happening and accused No. 3 reported that there were many people there including the army. Accused No. 4 said he had heard that the whole army was there and that they had to go there because it was all they could do. He wanted to know whether the place was locked and whether the gates were blocked. Accused No. 4 insisted that they should go on, and wanted to know whether the people had been able to get inside. Accused No. 3 replied that they were going on and that the people were not as yet inside, they were just milling on the road. Accused No. 4 again wanted to know if the stadium was open. Accused No. 3 replied in the negative. Accused No. 4 repeated that he was of the view that they must go on. He then asked if the army itself was there and whether they were in camouflage. He also wanted to know how many people there were and accused No. 3 said about 3,000. Accused No. 4 again repeated: "Sit on, boys, sit on. Daar is nie ander ding." He told accused No. 3 not to talk to the Press and wanted to know whether 'Gong' had telephoned and told them that there were many people.

At 6.30 p.m. accused No. 4 telephoned accused No. 2 and accused No. 2 reported that police had cordoned off the place. Accused No. 4 wanted to know where the people were

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and accused No. 2 replied that they had scattered, but that they were still there. The people wanted to go there. They were worked up emotionally. Accused No. 4 asked if accused No. 2 had at least been able to say something to the people, to which he replied that he couldn't say anything except shout 'Power!' Accused No. 2 wanted to know whether the megaphone was not loud enough, to which accused No. 2 replied that it was not possible to use the megaphone - the people were singing and hurling insults at the 'pigs'. Accused No. 2 said that the people were still there and there were close to 2,000 people. Accused No. 4 insisted that accused No. 2 return to the people because there must at least be one or two of them so that there could be no reflection against them. Accused No. 2 thought it was a pointless suggestion as there were Alsations and many people were on their way home. Accused No. 4 wanted to know whether anyone had been arrested, and accused No. 2 said a few persons were bitten by dogs. Accused No. 4 then asked if they were going on with the Press-conference, and they then discussed what should be put in the press-statement. Accused No. 4 asked that somebody be sent to fetch him so that he could also attend the conference. It is clear from the discussion that accused No. 2 was to say that they had tried to persuade people not to attend the rally, but that they insisted on doing so. Accused No. 4 thought that that nonsense should now be excised and that they should condemn them as strongly as they could. In evidence they explained that by 'them' they meant the Press and the Minister.

In coming to the conclusion that Singh's version should be accepted that they had decided to carry on with the rally, the Court had regard to the following considerations .

accused/.....

Accused Nos. 1 and 2 consistently adopted the attitude that all the rallies would be held irrespective of bannings. This attitude was reflected in the press-statements and in conversations over the telephone, and more particularly in conversation with accused No. 6, the president of SASO, and regional secretaries of SASO, a little more than an hour before the rally in Durban was <sup>due</sup> to start. They had contingency plans in the event of a banning and had taken the necessary steps in terms of the contingency plan. They had legal opinion that the rallies could be held if they were not addressed by either members of BPC or SASO, and it was evidently on that basis that they insisted that the rallies should go on. Members of the executives of both SASO and BPC attended the rally in Durban and accused No. 2 was indeed received at the rally by Colin Jeffrey, the vice-president of BPC, and Dubasane, the publications director of SASO. The wife of accused No. 4 saw accused No. 4 after the lunch-time meeting in his room at the Hospital, and he knew that she would attend the rally. He did not tell her that the rally was called off or that they were not continuing with the rally. Accused No. 1's wife attended the rally and led the singing, according to the evidence of Major Stadler. There is also other evidence which indicates this. Rev Cooper, the brother of accused No. 1, and who was the public relations officer of BPC, just before Harry Singh took over, also attended the rally. It may be mentioned here that Farisane, the president of BPC, was at that time absent in Israel and had no part in arranging the rally. Colin Jeffrey, who lives in Durban, assisted with the organization of the rally and was a party to the decision to allow accused No. 5 to represent BPC and act as spokesman of BPC in arranging/....



arranging the rally. This gives credence to Singh's version that Mayatula was annoyed because accused No. 2 was defying the ban. Accused No. 1 testified that Mayatula was annoyed that accused No. 2 represented BPC in making statements to the Press. Accused No. 1 said that Mayatula was concerned because the rally was represented as a SASO rally and not a BPC/SASO rally. This is of course not so, because all the press-statements were in respect of BPC and SASO. Moreover, if Mayatula was annoyed that accused No. 2 represented BPC in making press-statements, then he certainly would have raised the matter with accused No. 5 who was both secretary and national organizer of BPC, or Singh, the public relations officer of BPC, and on the evidence he clearly had not done so. Accused No. 2, on the evidence of accused Nos. 3 and 5, said that nothing was discussed in the motorcar from the rally back to the SASO offices. If it is true that accused No. 2 went to the rally to disperse the crowd in a manner left to his discretion, as was decided in accused No. 4's room, according to accused Nos. 1, 3 and 5, then it is inconceivable why on the journey back to the offices, they did not ask him what he had done as far as that was concerned. If Mayatula were annoyed for the reason given by Singh, then they would have tried to persuade Mayatula in the office that the rally was legal as stated by accused No. 1, and they also would have told him that they were going to call off the rally. Since accused No. 2 did nothing of the sort, he would have reported back to those in the car where Mayatula was that he could not do anything and only had time to shout 'Power', which even on the defence evidence, was not his conduct at the rally.

It/.....

It is now convenient to turn to the rally itself.

Lieutenant van Niekerk, the station-commander of the police-station in Samtsau Road, Durban, quite close to Curries Fountain, went to Curries Fountain sports-grounds on the 25th September at 3.15 p.m., with six White and six Black policemen. At the entrance of Curries Fountain he removed a banner which advertised the rally. There were between 50 and 60 Blacks in front of the entrance to Curries Fountain. He stationed the policemen at strategic points in the sports-grounds, and shut the motor-gate. The entrance to the sports-grounds known as Curries Fountain is on Winterton Walk, which runs from east to west. The entrance is on the northern side of the tarred road. There is an open area between the entrance to Curries Fountain, referred to as the 'apron', which is also tarred and the road. South of the road is a 10 ft. high sloping embankment. On top of the embankment are the grounds of the Mansfield Road High-school. The entrance to Curries Fountain consists of a row of turn-stile gates with a motor-gate on either side. The one is referred to as the eastern gate and the other as the western gate. There is a 3 - 4 ft. wide pavement between the road and the embankment, and the 'apron' between the turn-stiles and the road is fairly large.

By 5.30 p.m. the crowd had increased, according to van Niekerk, to between 1,000 and 1,200. About 20 White policemen arrived in motorcars with their dogs and they were allowed to enter the eastern gate, where they were kept out of sight. Their cars were parked in front of the gates.

Major Stadler of the Security Branch in Durban, is the investigation officer in this case, and has been attached

to/.....

to the Security Branch since 1963. At 4,25 p.m. he and Colonel Steenkamp in one motorcar and Captain Welman and Captain du Toit in another motorcar, went to Curries Fountain. On his arrival, there were already several members of the police force there. The members were gradually increased until there were 28 patrol-dogs with their handlers and approximately 30 members of the police. Three or four members of the police were patrolling with their dogs in front of Curries Fountain. Major Stadler found groups of people on the slope of the embankment opposite the gates. According to him, they increased to between 1,000 and 1,500 people by about 5.30 p.m. On the sides of this crowd there were Whites who were clearly inquisitive onlookers. There were also a few Whites who were known to the Major and who later took part in the singing.

Between 5.30 and 5.40 p.m. a portion of the crowd started to move onto the pavement and at about 5.40 p.m. they began singing under the leadership of accused No. 1's wife, who wore a BPC T-shirt, and a Black woman in blue denims. They all shouted 'Power' and 'Amandla Uwehu', 'Lesotho', 'Uhuru' and other slogans. They also gave the Power salute. Accused No. 1's wife pointed in the direction of the police and said: "White man, go home." A group of approximately 300 gradually moved over the road until they were on the 'apron' in front of the entrance. In the process they made rhythmic movements with their bodies while singing and clapping their hands. They made contemptuous and provocative remarks to the police and moved up to the police and then retreated again. A video-tape recording made at the time was shown in Court. It showed an emotionally-charged crowd dancing/.....

dancing, singing and shouting and some of the people made finger-gestures in the direction of the camera.

At 5.47 p.m., Colonel Jordaan, who was standing with a megaphone at a point halfway between the gates and the road, but more towards the western gate, began addressing the crowd. There was then a terrific noise. The crowd was singing, shouting and taunting him, and more people came from the embankment onto the 'apron'. Col. Jordaan, Col. Steenkamp and Maj. Stadler had previously decided what he would say. He explained to them that the gathering was prohibited by the Minister and that by being there they were making themselves guilty of an offence. He ordered them to disperse immediately. He repeated this three times in both English and Afrikaans.

A traffic-police motorcar had arrived with a loud-speaker system at 5.48 p.m. and a Black sergeant then addressed them in Zulu through this loud-speaker system, on the instructions of Col. Jordaan. The crowd continued to be contemptuous and provocative. Col. Jordaan called the crowd to attention and the sergeant again addressed them in Zulu. There was then less shouting and taunting.

at 5.51 p.m. Capt. Welman pointed out accused No. 2 to Maj. Stadler. He had been approaching the crowd from the east in Winterton Walk and was at that stage on the 'apron' in front of the gates. The crowd was then in the middle of the 'apron!'. A few people went forward to meet him and threw their arms round his neck and enthusiastically shouted 'Power'. Amongst them were Colin Jeffrey and Norman Dubasane. He responded by giving the Power salute and also shouting 'Power'. The crowd again responded to this by giving the Power salute and shouting 'Power'. Accused No. 2 exchanged a few words

with/.....

with them, pointed in the direction of Major Stadler and Capt. Welman and said: "These guys can't stop us." Capt. Welman had a tape-recorder with him and recorded this. Accused No. 2 was then about 5 paces away from him.

Accused No. 2 moved towards the crowd and they then formed a mass-formation behind him, one holding the other from behind, and with shuffling movements moved in a semi-circle towards the east gate. According to Maj. Stadler the shuffling movements of their feet were the kind used in Zulu war-dances. People in the crowd shouted 'Ngena, Ngena', which means 'Go in, go in' in Zulu, and which in the circumstances meant that they were entering Curries Fountain. Col. Jordaan then gave the instruction to surround and arrest the crowd, and dogs appeared at the gate with their handlers when accused No. 2 was approximately 15 feet from the gate. Accused No. 2 stepped back, freed himself from the crowd and went in the direction of the embankment. Maj. Stadler was watching him all the time and tried to follow him, but when he reached the middle of Winterton Walk, accused No. 2 was already halfway up the embankment. From that moment on there was chaos. Dogs were barking and the people were running away. Maj. Stadler himself had to get out of the way of the dogs, and Col. Jordaan was bitten in the process. Apart from the few that were arrested with the assistance of the dogs, the crowd had disappeared within a very short time. Just before 7 p.m. Maj. Stadler went to the SASO office with other members of the Security Branch, where certain documents were attached.

Maj. Stadler was corroborated by Capt. Welman, Capt. du Toit and Lt. van Niekerk on material points as to what/.....

what happened at Curries Fountain.

A number of photographs were handed in which were evidently taken before 5.30 p.m. while people in the crowd were sitting or standing on the slope of the embankment, giving 'Power' salutes. The singing and dancing started after that time, and that could be seen on the video-tapes. One photograph shows 'Power' salutes being given while the Black sergeant was addressing the people through the loud-speaker system. Photographs also show accused No. 2 with Colin Jeffrey and Dubasane. Accused No. 1's wife and brother were also identified on the photographs. A lot of cross-examination centred round the photographs, but nothing turns on it. Much of the criticism of the police-evidence relates to the presence of dogs outside Curries Fountain, but there again, as Maj. Stadler said, he was not looking out for dogs, they were moving around and it is possible that they would not be noticed unless one really directed one's attention to them.

It is necessary to mention here that the authorities anticipated trouble at the rally on that day and had more than 200 members of the force drawn from other police stations assembled at Santsau Road police station and some more at the Berea police station not far from Curries Fountain. This meant that reservists had to be used in the police stations from where the regular members of the police were drawn, and they are not trained, or able to do the ordinary police duties of the regular policeman. There were only 28 dogs available at Durban for ordinary crime-prevention and they were all tied up at Curries Fountain on that day, according to Maj. Stadler this all caused considerable disruption/.....

ruption of police work in and around the Durban area.

The defence called several witnesses who attended the rally at Curries Fountain. Tshabalala, who works as a research assistant for Lever Brothers in Durban, attended the rally in the company of Nduduzi Guma, who works as a clerk for a firm of attorneys. They arrived at Curries Fountain after 5 p.m.. They went on to the slope of the embankment and afterwards joined the singing. According to Tshabalala he saw accused No. 2 arrive. The people near accused No. 2 cheered him and they all joined in the singing. Accused No. 2 went deep into the crowd and the people started moving up and down. There was an announcement that the people should disperse, but they just continued singing. He does not remember whether the announcement was made before or after accused No. 2 arrived. Tshabalala was not particularly interested in seeing what accused No. 2 was doing. He himself was just a part of the crowd and did not see accused No. 2 all the time. The crowd was moving east and west. He would not say it was a movement that could be defined, they were just moving aimlessly. The crowd continued singing and then at some stage Tshabalala saw that there were dogs. He noticed that the dogs were around while there was a general moving up and down. The dogs were on the road on the periphery of the crowd. At some stage Tshabalala had got down onto the road to join the people and was on the road when he saw the dogs. The people continued singing while the dogs were there and then immediately the dogs and the police charged the people. There was then confusion and people scattered in all directions. Tshabalala said the people on the road were singing, clapping their hands and moving their bodies. He was shown a photograph and purported to identify/.....

identify accused No. 2 on it. He identified a person on the photograph as accused No. 2 merely because of the lumber-jacket that person was wearing. The person he identified was at the back of the crowd and not anywhere near Colin Jeffrey or Dubasane, which is quite inconsistent with all the evidence.

Guma confirmed Tshabalala's evidence that he attended the rally in his company. He heard the announcement on the megaphone telling the people that the rally was banned and that they must disperse. This was repeated in Zulu by a Black policeman. According to him, some people called upon the crowd to stop shouting and singing so that they could hear the announcement. There were movements of the crowd which were not directed; some were shifting towards the west and others towards the east. At a certain stage the dogs came out. He noticed accused No. 2 after the announcement for a very short time, when he was joining the crowd. Some people recognised him - there was a raising of fists, shouting, and some people hugged him at that stage. It was after the announcement and the general mood was that people should move towards the east, that is, almost dispersing. It was fairly clear to everyone that people should disperse and that there was no question of a rally. They were dispersing in a disorganized form. The police then came with the dogs and they stopped the people from proceeding towards the east and the crowd was forced to move up the slope of the embankment. The witness attended the rally because he was curious to see what would happen, seeing that there had been a report that the rally had been banned and a subsequent report that the rally would go on in spite of the ban. He was also curious to see whether Frelimo speakers would be available to address the rally/.....



rally. When shown the photograph of the crowd giving a 'Power' salute while the Black policeman was making the announcement, he said that they had their hands up to call upon the people to keep quiet so that they could hear what the policeman was saying. According to the witness, there were no dogs outside before the announcement was made.

Guma's evidence is inconsistent with all the evidence that the crowd did not disperse after the announcement was made and before the dogs were brought out. The photographs also do not support his evidence. His identification of accused No. 2 on certain of the photographs was unconvincing.

Ralf Mgiga, a medical student at the UNB, who was vice-president of the SRC in 1974 and president in 1975, knows all the accused. He went to the SASO offices on 25th September to find out whether the rally would take place that afternoon. He was referred to the BAWU offices where he saw accused Nos. 1 and 2. He went to the rally with Norman Dubasane. They arrived there a little before 5 p.m. at that stage nothing was taking place. Fifteen minutes later the crowd in front started to sing. He and Dubasane moved to the front, people were also clapping their hands and dancing. As the numbers increased, the crowd moved over the road. At some stage a policeman started to talk through a megaphone about 10 yards from the witness. He commanded the crowd to disperse but they did not. This announcement was followed by another by a Black policeman, who also told them to disperse. After the announcements the crowd started moving slowly in an easterly direction. He heard somebody scream behind him and saw many policemen with dogs encircling the crowd. They all then ran onto the embankment/....

embankment. The witness saw accused No. 2 after the announcement had been made. He was busy pushing himself into the crowd, and met some people whom he talked to and who surrounded him. One was Colin Jeffrey. He talked to them for some time, for one or two minutes, and at some time he joined in the singing. The witness saw him turn around and make a fist, then beckon the crowd towards the east as everybody walked in an easterly direction. He did not say anything that the witness heard, and they were singing 'Shosholoza', The witness did not keep him in sight all the time. This was shortly followed by the cry the witness heard behind him when the police-dogs appeared on the scene.

This evidence is wholly inconsistent with efforts made by the defence to show that accused No. 2 was the person in the lumber-jacket at the back of the crowd near the gate and not anywhere near Colin Jeffrey.

One Harper, an articled clerk, went to Curries Fountain together with three other law-students. They arrived there just after 5 o'clock. Initially there were approximately 100 people, but the numbers increased rapidly. A large section of the people stood on the pavement. The crowd was chanting and singing and giving black 'Power' salutes. As the crowd was expanding, they were moving in the direction of the turn-stiles and the people were gradually moving down the bank to the rest of the crowd. They were still chanting and singing and moved very close to the policemen. A part of the crowd started drifting in an easterly direction. A policeman used a megaphone and subsequently a Durban city police-vehicle was used and the message then given to the crowd was more distinct. The crowd was being warned to disperse about an hour/.....

hour after the witness had arrived at Curries Fountain. The eastern gate was opened and the police who had been inside the stadium with their dogs, quickly went out through the gate on to the road. There was no leadership on the part of the crowd - drifting in an easterly direction and the witness thought that the whole event was characterized by spontaneity and an absence of real leadership. It seemed to the witness that the dogs moved into the crowd <sup>in</sup> a split-second and there was just sheer pandemonium. It did not seem to the witness that there was any intention by the crowd of actually going towards the motor-gate. The witness took a number of photographs because after having read in the newspaper about the statement of one Koekemoer, he thought that a situation of high tension might arise, and he actually thought that Koekemoer would turn up with a number of people to break up the rally. He thought some people might over-act because of what had just taken place in Mocambique. There were quite strong feelings at the time and he thought people might use the occasion to vent their anger. He thought there was no reason whatsoever for the police to have taken the action they did in dispersing the crowd. He was extremely shocked. If people had suddenly pulled out pangas or something, and attacked the police, it would have been totally justified.

This witness is completely unhelpful on the question of the arrival of accused No. 2 at Curries Fountain and his conduct there.

The Court has no hesitation in accepting the evidence of Maj. Stadler, Capt. du Toit, Capt. Welman and Lt. van Niekerk as to what happened at Curries Fountain. Accused No. 2 as secretary-general of SASO and organizer of the rally  
wanted/.....

wanted the rally to go on so as to have a confrontation with the authorities and in the process embarrass the Government in their relations with Frelimo. In order to provoke a confrontation with the police, he tried to take the crowd into the sports-ground at Curries Fountain. The appearance of the police with the dogs prevented him from doing so. This conclusion is supported by the view SASO had of the attitude of the Whites and the Government in respect of Frelimo as reflected in the press-statement of the 9th September, the decision of the executives of BPC and SASO to hold 'Viva-Frelimo' rallies at different centres in the country, the decisions and attempt to introduce members of Frelimo into the country illegally to address the rallies, the stratagem employed by spreading or encouraging false rumours that members of Frelimo had been smuggled into the country to address rallies, the decision by the executives to go on with the rallies at all costs in spite of a ban by the Minister of Police, and the satisfaction expressed by the president of SASO when he was able to report to his secretary-general that the rally at Turfloop was a success - it was beautiful; he said. He in fact exaggerated the violence to make his report sound more beautiful.

Rev. Mayatula was upset by the provocative attitude of accused No. 2 in his press-statements because he realized that the continuation of the rally after the banning order would lead to a violent confrontation and, according to Singh, he said that BPC was not yet ready for confrontation. The evidence of Singh is to some extent corroborated by the evidence of accused No. 1 that accused No. 2 explained to Mayatula in the SASO office that they could continue with the rally

quite/,....

quite legally and also by falsely stating to Mayatula that accused No. 2 was going to call the rally off by dispersing the crowd. As the Court has already indicated, the versions of accused No. 1, 2 and 3 are contradictory as to what the complaint of Mayatula was, and the Court has accepted Singh's version. This attitude of Mayatula confirms Singh's evidence that BPC was against confrontation during the first three years while it was building up a membership of one million and conscientizing its members, and that BPC should then work for a national tools-down strike. This was the point discussed in a commission at the inaugural convention in July, 1972.

Accused No. 1 says this is a hobby-horse of Mayatula. Be that as it may, according to Singh there was a meeting in accused No. 1's flat in May or July 1974, when accused Nos. 1 and 4 and Mayatula were present, when the strategy of BPC was discussed. Mayatula said that it was best that BPC forget about inlisting a million members and rather concentrate on the consolidation of workers. BPC had to form literacy classes through BAWU and in the literacy classes every worker had to be made politically aware of his oppressive state in South Africa. Accused No. 1 agreed that BAWU would be the ideal body to work through since workers from there could be put into hostels for Black workers and each BAWU official could be put in charge of twenty people in a hostel to conscientize them. These twenty people could then go out and conscientize other workers. In this way, on a nation-wide project, BPC would in a period of five years be able to call for a nation-wide strike and it would most definitely succeed. If it did not bring about higher wages then it would cripple the economy of the country and that would also serve the purpose. They thereupon

decided/.....

decided to work upon this scheme.

On the 19th December 1973, after the national congress of BPC at Hammanskraal, Mayatula wrote a letter to the Black People of Namibia, as interim president of BPC and chairman of the Mapumulo branch, and called on them that they must now all unite and solidify themselves and be involved in an internationally recognised and peaceful 'tools down' strike all over Southern Africa exactly at the same time in order to cripple the racists economically. He requested them to give BPC time to finish up their conscientization process; then they would do things together once and for all. He wrote that if they all work hardest in conscientizing all the Black people, it would surely mean a 100% annihilation of the oppressor's economy. In the next Christmas they should teach their people not to spend on clothes but on tinned foods for the day of reckoning. Gradually, tinned food must be stored away, from now.

The accused tried to make out that Mayatula was an irresponsible and talkative romantic, but the fact remains that he was an influential person in BPC and elected president at the inaugural convention. When members of the executive were banned in 1973, accused No. 5 specially asked that a copy of an invitation to a special national executive meeting in Johannesburg on 29th September 1973 be sent to Rev. Mayatula and his <sup>interim</sup> ~~executive~~ committee. When accused No. 1 felt that they were doing something that might make or break BPC by holding the rally, he made an urgent appeal to Mayatula to be present. This also gives credence to the evidence of Singh that accused Nos. 1, 4 and Mayatula formed an influential body referred to by themselves as the supreme command. Biko said that accused Nos. 1 and 4 were influential in BPC. When accused No. 1

made/....

made an urgent appeal to Mayatula to come to Durban in connection with the rally, a similar appeal was made to accused No. 4. When the executive could not decide whether they should go on with the rally or not, accused No. 1 was present and he took them to accused No. 4. Mayatula could not be there because he could not get there in time. All three of them were founders of BPC. When Singh testified in Court that accused No. 1 tried to communicate with them in jail and shouted down the passage that nothing should be said about the supreme command, he was not cross-examined thereon. When the press-conference was to be held at 7 p.m., accused No. 4 had to be fetched to be present, as appears from the telephone conversation. Accused No. 1, although a restricted person, played a very active part in the affairs of BPC, prepared a lot of documents on behalf of BPC and was attached to BAWU in a peculiar way. BAWU put up money when money was required, for example, Singh's trip to Europe, BPC shared BAWU's offices, the telephone was BAWU's telephone, but nobody seems to know anything about BAWU. Drake Koka, who was the first secretary-general of BPC and also foundation member, evidently created BAWU. Accused No. 5, secretary-general and national organizer of BPC, does not know the position of accused No. 1 in BAWU. All that he knows is that accused No. 1 is with BAWU.

When the decision was taken by BPC on 20th September to participate in the rally, accused No. 1, Lindelwa Mabandla and Mbewu were present. They were not members of either SASO or BPC. Accused No. 5 tried to explain their presence by saying that they were having the meeting at BAWU's hospitality and accused No. 1 was the man who was assisting in

BAWU/...

BAWU. He then said that BAWU was represented by Mabandla and Mbewu and that Bawa was also in it. BPC has not got officed in Durban, and the normal place he went to when in Durban was the BAWU office.

When accused No. 1 was asked about his relationship with BAWU, he said BAWU set up an office in Durban in 1974, which he assisted in setting up. He also gave certain surplus furniture towards the furnishing of the office, he assisted the staff at the office to do books of account for a certain period and assisted in setting up the banking account. When he asked individuals to do administrative chores, they complied.

Bawa testified that he met accused No. 1 in March 1974 in connection with BAWU. Bawa joined BAWU, which he described as a trade-union in Durban for Black people. It has an office in Durban and in Johannesburg. In Durban there are several people who are in charge of it. The two who were primarily in charge were accused No. 1 and Mabandla. BAWU had a more socio-political use than other trade-unions and its purpose was to unify the Black workers in Durban.

Accused No. 1 was also interested in the theatre. It was the policy of BPC to use the theatre for purposes of conscientization, and accused No. 1 wrote a play which he described as a 'work-shop effort', and which was intended to involve a number of players. The play clearly illustrates the line of thinking of accused No. 1, and reads as follows :



"AFTER.

MOB : Roll on up for change has come. Come on in - for the best in town, take your pick on the finest course. For we have got nothing to worry about, roll on up - for the revolution's won. Come on up - for the best in town - take your pick of the finest house - for we've got nothing to worry about.

Curtains - you have always broken but now you're on your bended knees. Take him - take me finally -

WHITE : My time is thro' - Little left to do - After all I've done for 3 centuries, seems so long, seems so long.

(1) Cut the protesting forget the excuses - We want our vengeance - get up off the floor

(2) We have his records - We need to arrest him  
You know his atrocities - we are the law.

(3) Think of the things you have done to my people  
Choose any punishment - its your just reward  
We've noted your actions - we've noted your brutality  
This isn't judgment day - that's long past  
Long past, long past now!

See my eyes I can hardly see

See me stand I can hardly walk

I believe I have done the wrong

See my tongue I can hardly talk

See my skin I'm a mass of blood

See my legs I can hardly stand

I believe I have done the wrong

See my purse I'm a poor poor man

Will you forgive will you oh Black man

Won't/....

"Won't you forgive won't you oh Black man  
 Will you forget you can oh Black man  
 Let's be brothers oh I know we can -

BEFORE

Darkness. Torture sounds - cop noises - police records - court sounds - general sounds manifesting system on p.a. Light on cop, chained and handcuffed to office swivel-chair on rollers. War drums up as sounds down. Mob in menacing dance around this central object, which, as lights brighten and general sounds increase, awakes and is visible terrorising himself in cold sweat. Until screams on crescendo.

MOB: We are the children of the Revolution.

CO-ORDINATOR: Yes, Mr. Policeman, children of the Revolution - and we are going to find out just how revolting you are!

MOB: We are here to avenge the deaths of our brothers and sisters.

CO-ORDINATOR: All the brothers and sisters that you tortured, locked in your stinking jails, whose soul you crushed. That you killed, Mr. Policeman!

MOB: (Part of this is crossed out) As we disposed of all the Uncle Toms and sell-outs we're going to get rid of you first, we exterminated all the Uncle Toms and sell-outs. Now its the system.

CO-ORDINATOR: And that means you, Mr. Man! We'll dispose of you as you had us dispose of your rubbish.

MOB: We are here to redeem the good and destroy the evil.

CO-ORDINATOR/.....

"CO-ORDINATOR: Your judgment day has come, Mr. Soldier Boy.  
We're going to wait for your confessions.

MOB: Yes the confessions -

1. About Timol (Tiro?)
2. About - detentions without trial - Pass laws -  
influx control - permit - job reserv-  
ation - torture and brutality.
1. Why don't you say anything
2. He's so scared shitless - his mouth is full of  
it.
3. But his mouth's wide open
4. He's dumb, that's why
5. Dogs don't answer men - they whimper

CO-ORDINATOR: So this is what you're really like. I've  
always had this burning desire to find out what  
makes you tick. Now I know its not the time-bomb  
inside you. You're so scared your bones and teeth  
are making a ticking sound. This is the first time  
I've been glad to see a cop, man, or soldier man.  
It's the first time I've made a cop welcome in my  
own house - and it's my pleasure - sorry, 'our'  
pleasure.

We've been dying to meet you for so long,  
Yeah, dying by the hundreds, daily - of starvation -  
of poverty - cold - of torture - of pain - in your  
jails - in your ghettos - in your work-houses - in  
your hostels - in your mines.

We've heard so much about you - How you keep law  
and order - the way you beat the hell out of my  
brother - the time you took my father from home in

the/.....

"the middle of the night - and we never saw him again.

Aw, come on, you saw him in his grave. Yeah, but that was months, a year later.

BLINDFOLD OFF COP: Look cop - see anybody you know.

All black faces the same to him.

ROLL HIM AROUND

CO-ORDINATOR: All right you bliksem. Now show the man the respect he deserves. Sir! Baas! Mr. Policeman!

Mr. Soldier!

CO-ORDINATOR: Baaie goot. Now, we don't want this law enforcer here to think we don't respect him.

COP. All right you ous. Why am I here? (LAUGH)  
Are you stupid cop. Ask a silly question you get a silly answer. We brought you here so that you can lock us all up for interfering in your duties. Here's my pass man you can't touch me. Now, baas, I didn't touch you, you can't charge me with g.b.h. Come on, cop, where's your baton, defend yourself, What baton man - that's for kids - these guys carry real live guns - the kind that makes an inch hole in your back. Get him away from me I done nothing. I get nervous when the cops are around.

COP: I am asking you again - why am I here?

CO-ORDINATOR: That's a good question baas. Don't you all think so? NODS. So we'll give you a good answer. We invited you here for a little game. A party - with nobody else but you and us. You're our guest of honour. We can't celebrate with anybody else but you.

COP: Celebrate? Celebrate what?

CO-ORDINATOR: We answer no questions for you. The fun begins.

AFTER/.....

AFTER

'MOB: Look at all my trials and tribulations - sinking in a gentle pool of blood - Don't disturb me now I can see the answers - Till this evening is this morning life is fine - Always hoped that I'd be a free man - Knew that I would make it if I tried - Then when we retire we can write true history - So they'll talk about us when we've died -

W.A. The end ... Is just a little harder when brought about by Blacks - For all you know this day could be my last - For all you know this day could be my last. The end.

(1) Cut out the dramatics. You know very well wh ---

WH: Why don't you come do it

(1) You want me to do it

WH: Hurry they are waiting

(1) You want me to do it! What if I just stayed here - As a permanent reminder - Man you deserve it

WH: Hurry you fool, get on with it

Save me your speeches, I don't want to know -

(1) You sad pathetic man - see where you've brought us to Our ideals died around us because of you,

WH: Come on! Do it they're waiting

(1) Everytime I look at you I don't understand - Why you let the things you did get so out of hand - You'd have managed better if you'd had us in mind -

MOB: Repeat

Tell me Man how you feel tonite - Do you plan to put up a fight - Do you feel that you've had the breaks -

What would you say were your big mistakes? Do you think that you may retire? Did you think you would get much

higher/...

"higher? How do you view your coming trial? Have your  
- the word stooges scratched out and replaced by lackeys  
proved that worthwhile

Come with us to see Sobukwe - You'll just love the  
leader's house - You'll just love seeing Sobukwe -  
You'll just die in the leader's house

Come on Man this is not like you - Let us know what  
you're gonna do - You know what your supporters feel  
You'll escape in the final ordeal. Tell me Man how  
you feel tonite - Do you plan to put up a fight

Do you feel that you've had the breaks? What would you  
say were your big mistakes? Now we have him! Now we  
have got him!

(2) Man you must realise the serious charges facing you  
You say you're not responsible for our bondage - well  
is it true?

WH: That's what you say - You say what you want  
There you have it - ..brothers and sisters  
What more evidence do we need? Everyday I have to  
look to the sun - To see where it was that I have come  
from - I have a feeling that there must be a time -  
When I'll get a chance to go home - 'Cause I'm so tired  
of being here alone -Where are the others who were  
with me - I'm trying so hard to pay for my crimes.  
If I could go back the same way I got here  
and see the people that I once held in fear  
I'd do my best to find an answer for you  
But first I must wait till I'm set free  
and I don't know how long that's gonna be  
'Cause I'm a man with a whole lot on his mind  
Just out there somewhere committing my crime  
Committing my crime  
'I have tried for so long to find some way  
Of helping mankind."

Because of the student unrest which followed after the suspension of Tiro from Turfloop in 1972, SASO was not allowed on campus at Turfloop from the beginning of 1973.

During about March 1974, accused Nos. 3 and 6 had participated in reviving an off-campus branch at Turfloop and accused No. 6 was elected chairman. The SASO local committee succeeded in overthrowing the then existing SRC and actively participated in the election of a new SRC on 13 September 1974. Three of its members were elected to the SRC, namely accused Nos. 6 and 7 and Ledwaba, who gave evidence in this case as an accomplice. Accused No. 6 was elected president of the SRC and Ledwaba the correspondence secretary. With the assistance of the new SRC, SASO was again permitted on the campus and allowed by the SRC to use its offices. In July 1974 at the 6th GSC Accused No. 6 was elected national president of SASO and Accused No. 7 then succeeded him as the president of the SRC. On the 18th September accused No. 6 who had attended the executive committee and staff-meetings in Durban on 15 September 1974, announced at a local committee meeting at Turfloop that SASO had decided to hold rallies, according to accused No. 6 in cross-examination, all over the country and asked whether the local committee could not organize a rally at Turfloop. According to Ledwaba, he himself, indicated that the SRC was thinking of holding a rally at Turfloop. Thereafter on 19 September 1974, at an extraordinary meeting of the executive council of the SRC at which accused No. 7 and Ledwaba were present, it was

decided to hold a SRC meeting on 21 September 1974 to discuss the Mocambique rally. The Transvaal region of SASO had organized a formation-school at Turfloop for 21st and 22nd September at which about 80 people attended. At the formation-school, the consummation of the struggle was discussed, to which reference has been made earlier in the judgment. The SRC on 22nd September 1974 held an extraordinary meeting and decided to hold the rally on 26 September. A tentative programme was decided upon, according to which the speakers were to be accused No. 6 as the national president of SASO, accused No. 7, the national president of the SRC and Ramposa, the president of the local committee of SASO. This of course meant that all the speakers were to be SASO-members. It was also decided to invite the chairman of the Black Academic Staff Association (BASA) to deliver a speech. A letter was addressed to the chairman of BASA on that day, inviting all members of BASA to a rally to celebrate the victory of "Our Black Brothers in Zambezia (Mocambique) against colonialism. It was suggested that SASO could help with the organization of the rally and according to Ledwaba SASO SASO in fact assisted.

That evening after the meeting accused No. 7, Ledwaba and Rathlagane the secretary of the SRC went to the hall where a play was being staged for the benefit of the people attending the SASO formation-school, and accused No. 7 announced to the students that a rally was to be held and mentioned that the purpose of the rally was to rejoice with the people in Mocambique. He told



the Students that materials would be supplied for placards and warned them that the rally should not be confused with a demonstration.

On the morning of the 24th Ledwaba went to town to buy sheets which were to be used for banners by the SRC and Rathlagane bought stiff paper for the placards. According to Ledwaba accused No. 7 came running into the dining-hall at lunch-time with a Rand Daily Mail newspaper and drew the attention of Ledwaba to the fact that all rallies had been banned which means that their rally was also banned and he thought it was a pity that their rally should be stopped in that way. The vice-president of the SRC, Mangwhate, joined them and disagreed with accused No. 7. They thereupon decided to consult senior law students, who also disagreed with accused No. 7 and it was then decided to continue with the rally. In actual fact, accused No. 6 telephoned Durban on that day between 1.30 and 1.45 p.m. and first spoke to accused No. 3 and then to accused No. 2. Accused No. 3 asked accused No. 6 whether they were getting the newspapers at Turfloop. He replied in the affirmative and wanted to know how they were able to publicise the Turfloop Rally before they were able to arrange for it. He said that they were going to have their rally the following morning and that they had told accused No. 2 to send them a reporter to be at Turfloop the following day from 2 o'clock onwards, they are not affected by the banning order and were continuing with their preparations. Rathlagane had evidently telephoned accused No. 3 the previous day and asked him to speak at

the rally. Accused No. 2 had suggested that Norman Dubasane be used as a speaker at the Turfloop rally, but accused No. 6 felt that he did not have the propelling spirit. He himself would be taking part in the rally and could easily tell the SRC members that they would be having him.

Accused No. 3 was prepared to fly up to Turfloop but accused No. 6 was first to find out whether the SRC was prepared to assume responsibility for the expenses. There was not a member immediately available and accused No. 6 said that he would tell an executive member that Durban said he must telephone. Accused No. 6 then spoke to accused No. 2 and told him that there was nothing wrong with their arrangements for the rally. Accused No. 2 said it is his job to inform No. 6 of "this" and then read the report in the Natal Mercury under the heading "Kruger bans Frelimo Solidarity Rally" to him. He said that they had issued statements that they were going on with the rally. He also read out to him the press-statement which he had released in this regard in which he stated that SASO/BPC were going on with their rallies. No. 6 then said yes they must continue that way. When No. 6 said they were not affected by the ban because they were on the campus, No. 2 disagreed with him and said they were. Accused No. 6 said that he was also going to release a press statement after the rally and that he would read it to accused No. 2 thereafter. Accused No. 2 asked whether he could send a reporter and cover the rally. Accused No. 6 told accused No. 2 that they wanted accused No. 3 to come and speak

at the Turfloop rally, but he replied that the Durban rally was the most important one and that they needed as many speakers as possible and thus needed accused No. 3. Accused No. 6 then asked whether there was not another man he could send, and accused No. 2 replied that they had decided to send either Norman Dubasane or Rubin Hare. Accused No. 6 then told accused No. 2 that they would use their own speakers. He immediately thereafter asked whether they could not get one of the Frelimos. Accused No. 2 merely said 'Yes' and asked whether they could not get Gerald Phokojo, the <sup>regional</sup> secretary of SASO to organize Mothuping, a person whom accused No. 6 had heard in the Kajee Hall as speaker. That evening the paper was issued to the students so that they could make placards. Banners were painted by members of the SRC. in the SRC offices. Accused Nos. 6 and 7 were in the SRC offices while the banners were being painted and Ledwaba painted a placard reading "Long live Frelimo Zambesia  
That is Colonialism,  
Azania shall be free. "

Mathopola was also at the SRC office and he had at that stage already painted a banner which he allowed Ledwaba to go and see in his room. On the banner was written:  
"Frelimo killed and won.  
S.A. Blacks? "

The words were painted in black with the exception of the words "killed" and "won" which were painted in red. The next morning there were a number of placards and banners on the campus and in some cases, slogans were painted on the

walls of buildings. Some of the placards read as follows:

" The dignity of the Black man has been restored in Mozambique and so shall it be here. "

" White man it is time to proceed to India as you promised get going. "

" Who next if not Vorster"

" Mozambique free. Azania? "

" Viva Frelimo. Africa for the Blacks. The Death of Colonialism. "

" Frelimo made them run. Freliza will drown them Cowards run! "

" Down with Pretoria Regime! "

" Stamp out Tyranny!!! Black must rule.

Be ye removed rapists !!! Frelimo!!

The hottest place in Hell is reserved for those who retain a state of neutrality during a moral crisis. "

" Which way .....? ..... el .....?

South African stinks!! Welcome Frelimo!! "

" Azania my love don't let pigs rape yo children. "

" Vacancies Govt. of Azania. Apply!

SASO BPC. Before we reach the 4th century of racist oppression. Majors Lieutenants Captains Duties to train and lead 50 million Blacks. "

- " Viva Frelimo!!! Azania is bored and from this boredom a revolution shall erupt. Down with Vorster and his dogs (Boers)! Power!!! We shall overcome. "
- " Samora Machel is now coming and Vorster must go !!!!! "
- " Azania shall be free no matter what tankers Vorster has. "
- " Down with Mulder up with terrorism To hell with Vorster Government. "
- " Long live Samora Machel and Frelimo - Power. Thanks to Tanzania. Viva Frelimo 10 yrs. - HAA!! HAA !!! HAA! For eternity Azania White? Vorster to India --> 1 yr. Vorster, when are you going to bring us home the spices I have sent you to collect. Surely when you return I am going to give you a hiding on your arse. Holland. Van Riebeeck didn't come back and you too are doing the same. Black man your land is at stake; wake up!! Come Frelisa, come SASO - Samora Machel has shown you dialogue cannot solve your problem!!
- " (Drawing of rifle) This, my son, I give you. Don't be a coward - Doubly dying shall thou go to the vile dust, unsung, unhonoured & unwept! "

" Frelimo fought and regained our soil, our dignity! It is a story. Change the name and the story applies to you! "

" We shall drive them to the sea! Long live Azania. "

" Revolution !! Machel will help! Away with Vorster Boer! We are not afraid. Black Power !!!!!"

" Viva Frelimo To hell with Vorster long live Azania. "

During lunch-time on 25th September, accused No. 7 and Rathlagane went into the dining-hall and announced that they were continuing with the rally, that those who had classes should not attend the rally, but attend their classes, and that the Dean of students had brought a message from the Rector that the SRC rally was not affected by the ban and could continue.

The chairman of BASA on 25 September replied to the invitation to attend the rally as follows:

" The decision of the Black Academic Staff Association is as follows:

(a) That the banning order imposed on the rallies which were to be organised by SASO and BPC is in substance applicable to the rally (or celebration) that your S.R.C. envisages;

(b) That in the light of our interpretation of the serious legal implications of such

" a celebration, in the circumstances, the Association does not wish to be involved;

(c) But the Association wishes to express its sympathy with the stand that you have taken.

Hoping that this difference in interpretation will be appreciated in the spirit of goodwill and tolerance, .."

According to accused No. 6 he had been attending classes Wednesday morning, 25th September, up to 12 noon. On the way to classes he saw a number of placards. At first he said he did not really know there would be placards, but then he again said he thought there would be placards of a general nature, such as "We support Frelimo" or "Viva Frelimo". There were many placards but he did not see any of those which were produced in Court. Then he again said he must have seen some of the ones before Court, but he couldn't remember them. His purpose was to attend lectures, and he read the placards as he went along. The state produced approximately 25 placards and he <sup>said he</sup> might have seen more than 20 that morning.

At approximate 12.30 p.m. Rathlagane came to him and informed him that the SASO/BPC rallies had been banned and that the SRC did not want any confusion about it. Accused No. 6 could therefore speak at the rally only as an individual and not as a representative of SASO. He showed accused No. 6 the banning order and accused No.6

agreed that it would be dangerous to address the meeting on behalf of SASO. Accused No. 6 however, wanted to address the meeting and he was prepared to do so in his individual capacity. Rathlagane also told accused No. 6 that they had sought legal advice from law students, which included accused No. 7, and they were of the view that the SRC was not affected by the order. The evidence of accused No. 6 that in deciding to hold the 'Viva Frelimo' rallies SASO felt that they would be sharing the sentiments of the Whites in this country, is quite inconsistent with the press-statement prepared by accused No. 2 and Dubasane on the 9th of September 1974.

According to accused No. 7, he himself said nothing at the SASO local branch meeting on 18th September, when accused No. 7 announced that SASO had decided to hold rallies all over the country. Ledwaba mentioned that the SRC were thinking of holding a rally at Turfloop. One of the members indicated that if the SRC thought that they required SASO members to help them arrange the rally, they would be very willing to do so.

On Tuesday 24th September, accused No. 7 had an appointment with the chairman and members of the BASA executive. They told him that they had heard rumours that the Frelimo rallies were to be banned, and they did not want to commit themselves to send a speaker to the rally before they had seen the Government Gazette.

On Wednesday 25th September at about 10 a.m. Accused No. 7 was called to the office of the chairman of BASA, and in the presence of his executive handed him the



letter in which they stated that they would not be participating in the rally. On his way to his lectures he noticed the placards and a lot of students milling around them. He himself read the placards, but cannot recall having seen those before Court. He thereafter did say that he could remember one which to him was really a work of art, and which was appreciated by the students. He identified the placard which was one of those before Court and on which there was a map of Africa; Southern Africa was in the grip of a black hand, and the legend read "Viva Frelimo. Africa for the Blacks. The Death of Colonialism". He then proceeded to say that he remembered it very well: "It was clear, it was very immaculate, it was really brilliant".

At 12.15 p.m., the Dean of Students told accused No. 7 that he wanted to meet the executive of the SRC. They went to his office at 12.30 p.m. and he told them that the Rector was concerned that the SRC was holding the rally. He had consulted the legal advisers of the University and they felt that the banning order was so 'wide' that it could not be construed to affect the SRC. The Rector was also very concerned about the painting on the wall and wanted to meet the SRC on the Thursday. Accused No. 7 thereupon went to the dining-hall and informed the students that they should not be worried about the report in the Rand Raily Mail. To confirm what the legal position was, he approached senior law students and they assured him that the banning of the SASO/BPC rallies would not affect the SRC rally.

It is difficult to reconcile the account of Accused No. 7 with that of Ledwaba who was also a member of the SRC. There is nothing to suggest that they acted jointly in the matter. It is inconceivable that they would not have acted in conjunction with accused No. 6, the president of SASO, and a member of the local committee on which they served, who was in touch with the secretary-general in Durban and who, on the evidence of the secretary-general had legal advice. In order not to disclose any association with SASO as far as the rally was concerned, they tried to create the impression in Court that accused No. 6 was not in the picture at all, whereas in fact he was all the time actively busy making arrangements with the secretary-general in Durban for speakers and press-coverage, and in his telephone conversation with accused No. 3, left the impression that it was within his competence to tell the SRC what they should do.

According to accused No. 7, he went to a packed hall at 2 p.m. and opened the meeting by giving them the assurance that the SRC rally did not fall within the banning order and that any person who wanted to talk should not talk on behalf of any organization, because they did not want to be involved in the implication that they invited members of other organizations such as SASO to come and talk at the rally. This incidentally was the advice that the secretary general of SASO had given to the persons who had organized rallies. He then told them all he knew about Frelimo. After his speech, he told them to shout with him 'Viva Frelimo. Viva Machel', they gave the

power sign and he invited students to address the rally. Accused No. 6 then addressed the rally and he was followed by a lady - speaker .

According to accused No. 6 the students behaved normally and shouted "Amandla", by way of applause. Accused No. 7 addressed the meeting and when he had finished, and it was time for accused No. 6 to make his speech, he stood up and explained that they were there to commemorate those who had suffered for freedom's cause and those who had ultimately gained their humanity <sup>and</sup> /called upon them to rededicate themselves to their own struggle in South Africa. He also indicated to them that he was speaking as an individual member of the student community and not as a person representing an organization as was reflected on the programme. He was not listening when the lady-speaker spoke (according to the police she was speaking about 'revolution') because his attention was directed to the police who had come onto the scene. Major Erasmus addressed the students through a megaphone, but because the megaphone was squeaking, nobody could hear what he wanted to say. A student then came forward and appealed to the body of students to listen to what the Major had to say. According to accused No. 6, the students were reluctant to listen, the major again spoke through the megaphone, and ultimately said that the students should disperse and that he was giving them 15 minutes in which to do so. Accused No. 6 then moved with a group of students to the sports field. They were singing. Mangope, a member of the

SRC had gone up to the major, but the major ignored him. The students were then on the sports-field. Accused No. 6 explained that he thought that when it was said that the meeting was banned, they were not allowed to continue with the meeting, and the implication of his evidence seems to be that by being on the sports-field they were not continuing with the meeting.

Rathlagane came up to them and told them to move to their respective hostels. The male and female students separated and when accused No. 6 reached the embankment on the southern side of the sports-field, he saw a dog behind him on a lead, but away from the police. He ran to his hostel. After a little while he heard noises outside. He went to investigate and when he was in front of another hostel, a tear-gas bomb was shot from the tarred road and he became "suffocated" and returned to his hostel. He was dizzy and did not know what was happening. After a while he went outside and found about 400 students on the side of the road. On the opposite side of the road, he saw accused No. 7 with members of the SRC and members of BASA. They were talking to major Erasmus. He then enquired from other students what had happened. Later on the Rector and the Registrar arrived, and immediately after the Rector left, some students were released by the police and the police also left the campus. Accused No. 6 saw nothing of what happened between the police and the students, and the reason could be that, if he said that he saw anything, he would have great difficulty in explaining his account of the injuries