

EDITED VERBATIM MINUTES

MEETING: 8TH, 9TH AND 10TH JUNE 1977 - CAPE TOWN

PARTICIPANTS:

REPUBLIC OF SOUTH AFRICA:

Mr. B.J. VORSTER, Prime Minister

Mr. R.F. BOTHA, Minister of Foreign Affairs

Mr. B. Fourie, Secretary for Foreign Affairs

CANADA:

George GRANDE, Ambassador

Paul LAPOINTE, Minister & Deputy Permanent Representative to the
United Nations

Ronald HALPIN, Third Secretary

FRANCE:

Albert THABAULT, Minister Plenipotentiary

Gilles DE LA BELLEISSUE, Charge d'Affaires, a.i.

Pierre Garrigue-Guyonnaud, Counsellor, French Permanent Minister to
the United Nations

GERMANY:

Hans-Joachim EICK, Ambassador

Helmut MUELLER, Head of Eastern and Southern Africa Desk

Hans-Joachim VERGAU, Counsellor, German Permanent Mission to the
United Nations

UNITED KINGDOM :

Sir David SCOTT, Ambassador

James MURRAY, Minister & Deputy Permanent Representative
to the United Nations

David SUMMERHAYES, Minister

P.R.N. FIFOOT, Legal Advisor

UNITED STATES :

Donald MCHENRY, Ambassador, Deputy Permanent Representative
to the United Nations

William G. BOWDLER, Ambassador

Donald PETERSON, Country Director for SOUTHERN AFRICA

PRIME MINISTER:

You are again very welcome, gentlemen. I am sorry that we couldn't lay on better weather for you, but I sincerely trust that you will enjoy your stay.

Now, unless you gentlemen express a wish otherwise, I think it will be best for me to withdraw at this stage and to allow you to have general preliminary discussions with the Minister of External Affairs and the rest of his party. Do you find that in order, gentlemen? If you will then excuse me, you can proceed. And Mr. Botha, I'll be available if and when you want me.

BOTHA:

Thank-you Sir.

Gentlemen, since last we met the representatives of the five countries who visited the territory of South West Africa, and we were also presented with an aide memoire by the five, and I take it that this aide memoire will now form the basis of our present round of discussions. And, furthermore, we have particularized by you the points which you said to us you would wish to discuss, namely the nature of United Nations involvement - but that was after the question of the interim authority, and in addition to that, you would wish to discuss the nature of United Nations involvement, the release of political prisoners, repeal of discriminatory laws and regulations, South Africa's spaced withdrawal from South West Africa which would be completed by the date of independence and arrangements for future discussions.

Now, I take it that you will all agree that we perhaps start ad sereatim in the order in which you set out the subjects and the first one then, as I see it, is the question of the establishment of an interim authority, administration, whatever you wish to call it.

MCHENRY:

Mr. Foreign Minister would it be proper, if I made some remarks which might add to the aide memoire which you had and which might give you as complete as possible our latest thinking?

BOTHA:

You are welcome, Mr. McHenry.

MCHENRY:

I guess, the first thing I might do, is to state that on behalf of the Governments represented here, Canada, France, Federal Republic of Germany, United Kingdom and the United States, we again want to thank you for receiving us here in Cape Town. As was the case during our last discussions, we come with a seriousness of purpose and a positive spirit in the hope that our discussions will contribute to an early internationally acceptable resolution of the Namibian question.

We believe that objective which we have agreed, you and we, is a common objective, was advanced during our last discussions. However, both you and we recognized at the time that major issues remained to be clarified and that on some issues there was no agreement. We have discussed, as you already know, the results of our previous talks with various Namibian political groups including SWAPO and the participants in the Turnhalle Conference, we have discussed those results with various African Governments, and with other parties with a particular interest in Namibia, and that is especially true of the United Nations and its Secretary-General.

I must say to you that their reactions varied. In general they welcomed your support for free elections in Namibia; elections in which all Namibians would participate in order to elect a constituent assembly and decide upon a constitution for an independent Namibia. They welcomed

your agreement to United Nations involvement in the Namibian electoral process. They welcomed your decision to refrain from obtaining parliamentary approval of the Turnhalle proposals.

However, they were suspicious about the proposed Central Administrative Authority. They expressed disappointment that no agreement was reached on the release of Namibian political prisoners. And numerous questions were raised about South African withdrawal. They were encouraged that our discussions had resulted in some progress and they encouraged us to pursue further discussions on the remaining outstanding issues. We believe that there is a possibility of enlisting broad support, particularly of the United Nations Secretary-General and of the Frontline States for a settlement along the lines of our last presentation.

Our mandate for these talks remains the same as before. First we believe that the United Nations Security Council Resolution 385 provides the most acceptable basis for a settlement of the Namibia question. It is a balanced document as we said before, which if implemented, will lead to a valid act to self-determination on the part of the people of Namibia. And second, we are not empowered, as we were not before, to negotiate a specific agreement with South Africa. What we hope to do is to explore with the South African Government and with the principal parties concerned, possible solutions consistent with Resolution 385 so that the people of Namibia can decide freely how they wish to govern themselves.

With regard to the issues outstanding from our last discussions, our positions were stated in the working paper which you and we went over on April 29th. We have sought as you acknowledged to reiterate those positions and to provide a focus for these discussions in our aide memoire of May 30th. I think we made clear that in order to facilitate our discussions, the South African Government would need to provide us with the detailed information on some of the outstanding issues, particularly what it had in mind with regard to what had been referred to as the Central Administrative Authority.

I suggest, as you have also suggested, that we might proceed by asking you to share your views on this Central Administrative Authority and then we might proceed to the other issues which were discussed there. I would suggest, however, that we might take up the question of the nature of United Nations involvement as the second matter and then take up political prisoners, discriminatory laws and legislation and so forth.

BOTHA:

That suits me. Any other statements? Well, then I suggest that we start our discussions with the subject of the interim administration. As far as that is concerned, I would wish at the outset to make one thing very clear, so that you do not become confused. We intend introducing a basic law in our Parliament within a few days. I think my Prime Minister would first wish to mention that to you as an act of

courtesy, but the law in broad outline would merely enable the State President of South Africa to do certain things in South West Africa. That, in my opinion and in the opinion of my Government, is in line with one of your own propositions, namely, that we ought to retain ultimate responsibility.

There will be no details of any governmental systems contained in that law at all. It will merely authorize our State President to perform the legislative and administrative functions in the ultimate, whereas it is now performed by certain other agencies or by Parliament. He will be enabled and authorized, of course, to institute an interim authority and to make such other arrangements administratively in the territory as he sees fit. I think that, in broad outline, would be the basic powers. The Prime Minister would probably later when he joins us, tell you more about this.

I want to mention at the outset so that if perhaps you hear stories about it, that you do not confuse it; you must not think that that is a law that will introduce a constitution for the territory. That is not the case at all. Now as far as the interim authority is concerned, we've had long discussions on this already, and there are two aspects, I think, that you would probably wish us to tell you something about, and that is its composition and its powers, if we can take a short cut. As far as the composition is concerned, gentlemen, I think that the Turnhalle now will be prepared to consider a composition different from the one envisaged in the constitution. Before I proceed, I would like to say in all honesty to you that we have one difficulty and that is,

and I can to some extent understand your problem. You are continuously telling us that you've got no mandate to negotiate with us agreements. And what is actually happening here is, apparently you come here and then we negotiate issues, but never do we know to what extent any of the understandings we reach are firm or not. You see, we are expected to talk to the Turnhalle people all the time; you spoke to them also, but the people are getting restless. They're asking us all the time: Now where are we now? What has been approved? What is the status of this paper or that thing you are talking about? And I must just ask you also to try and understand the difficulties that this create for us.

I understand that you haven't got any mandate, but we are indeed becoming a little bit worried that we are busy with a process in terms of which all the concessions are made on one side and none on the other. And I would like, not now, but in the course of our discussions, to learn from you to what extent you really believe that a fair and reasonable solution which the Turnhalle representatives might be prepared to accept, would in the end be accepted by you? And to what extent you would then stand firm and support understandings that are reached. Otherwise we are going to move in the Rhodesian sort of situation. We are not going to get a peaceful solution at all. These words just by way of preface, gentlemen.

To return to the composition, basically the position is, as I said, that we now think that the Turnhalle representatives might be prepared to consider a body composed differently from the one envisaged in the

constitution, namely, the eleven groups. I think it would be possible to have a body that in its composition would go beyond ethnicity, to put it bluntly. Now as to the real numbers involved in that body, there I cannot give you any final decision or dispensation, but vaguely, and I do not in this respect when I say you must not tie me to it, if I cannot succeed later, but it would not be less than 17, and probably not more than 23, 24. So that, as far as that is concerned, you can clearly see that there is a, I can almost say, radical deviation and change which the Turnhalle representatives might be prepared to accept.

Our difficulty, gentlemen, is that in all these things they continuously tell us now if we are prepared to do that, what would the five Western countries be prepared to do? And that's why I must remain a little bit vague about numbers. I can only say that it will go beyond the 11 groups and I've given you some figures to indicate to you the order of possibilities that might be achieved.

As far as the powers are concerned, you have particularized ideas and you've said, and this is hopeful, you stressed your view that any transitional arrangement for South West Africa, if it is to be acceptable to the parties concerned, must be in all respects compatible with the ideas set out in the working paper and in particular and then you mentioned there 1, 2, 3, 4, 5 ideas or objectives and you say that the interim authority should be compatible with those objectives. And I think I can say here that the interim authority would be compatible with those objectives. In particular, the last point, that the ultimate responsibility must remain with South Africa. The enabling legislation

which we are committed to introduce, will make that very, very clear, that the ultimate responsibility would remain with South Africa.

The rest of the points I find no difficulty with so that we take it that once I have satisfied you reasonably, depending on what our interpretations of course are, of your objectives, as stated here, then I think both as far as composition is concerned and as far as the powers are concerned of this body, that we have, in my opinion, hopefully a broad basis of agreement.

That is as far as I can go regarding the interim authority at this stage.

I don't know whether there are any questions or whether we can now discuss the subject further?

UNITED KINGDOM REPRESENTATIVE:

Mr BOTHA, could I ask you a couple of questions, and may I thank you very much for this information as opposed to the numbers; where would you choose the members of this body? Would you look at the leaders of the political groupings in Namibia? Or would you be looking at experts, technical experts or civil servants or what do you envisage as to the composition? And secondly, do you envisage that the President of South Africa would act through a single delegate, an administrator or whatever he might be called. Will there be one person over and above that group as representing the president or would that group act as a whole in a legislative fashion or in an advisory fashion?

And then I'm getting to the question of their powers. So the two questions basically are who would be the people forming this body and how would they function in practice?

BOTHA:

I cannot at this stage tell you who all the people would be. But let me be very frank with you; at least 11 of them would be representative of the 11 population groups now in physical existence in the territory of South West Africa. There is absolutely no way in which we can avoid that one because if you exclude one particular people, you are excluding a faction and then your trouble starts all over again.

So whether in particular, representatives of those 11 groups, whoever they might be, would be recognised by anybody, that is not our concern. Our concern is peace, as we've all said. To exclude one, you're going to have trouble. We are not now introducing at all. And I think that is of some extreme importance to keep in mind; we are not introducing a government finally for the territory of South West Africa; we are moving naturally and historically into a situation where the powers of departments, bodies that are now existing and now functioning there, de facto or de jure, it doesn't matter how you look at it; they are there, they are physically there, where some of those functions need to be taken over. And this body would take them over. Right now all 11 groups, with the exception of 2 or 3 smaller ones, constituting less than 15% of the total population, for the rest all of them now have functioning governmental bodies with wide powers; quite wide powers. They have it. It is the existing status quo. And the result is that instead of them functioning separately now, we're bringing them together as the Turnhalle has been together for three years. That is all.

The State President retains the ultimate authority; without his signature no legislative measure or decision can be brought into effect. As a matter of fact, he will rule by proclamation. In addition to the 11 that I mentioned to you, there will be more. I cannot at this stage tell you exactly from which circles they will come or on what basis. But the moment you start appointing people on the basis of political parties, then you've had it, in my opinion. Because there are a vast number of parties involved there; a very, very large number.

Mr. FOURIE just reminds me that it will also depend on whether some of the persons that might be approached would be prepared to serve. So I cannot give you a definite answer to that. All I can say is that the addition would most probably not be based on ethnicity at all. I think I can say it would not. And this was to meet that particular difficulty. We would have preferred a body of 12 members - the 11 plus the Chairman. That is what we would have preferred and that was Turnhalle. Now in an attempt to try and meet you, the Turnhalle went so far as to agree to an addition on certain conditions. They also want to know your reaction because they're in a difficult position. Their own supporters are getting restless and difficult with them. So that if what we are discussing is not acceptable to you, and please don't think for a moment I'm trying to be intransigent now; we believe we have not been, then I'm afraid that we will have to be frank with one another and look each other in the eye and then I must tell you that we cannot go beyond that.

As far as the State President is concerned, this body, and that is what we will have to work out; you see you are asking me questions all the time. I can't give you the answers for the simple reason that I'm not in a position to make the decisions. I've got to meet every time now when you ask questions, with the Turnhalle representatives. I have the same difficulty as you said you've got with other interested parties. And these questions put by you, for a proper reply, I will have to put to the Turnhalle representatives. I'm just thinking now in broad outline; I would imagine that what would happen is that this body either by consensus or by a majority vote would take certain decisions; call them what you like. And those decisions would then be forwarded to the State President of South Africa and it is then for the State President of South Africa to decide ultimately whether he would be prepared to embody them in a proclamation signed by him and make them law, yes or no. As far as that is concerned there is no basic juridical change in the status quo. Why? As a matter of fact, there is. There is one much more in line with your thoughts than the status quo. Because right now law can be created in South West Africa itself almost to the final point by the White Legislative Authority, which is composed of Whites only with elaborate systems. What you will have now is a sharing in decision by these various groups and additional individuals with the State President having the ultimate say as to whether he would like to sign it into law, yes or no.

FRENCH REPRESENTATIVE:

Mr. Minister, may I ask you these 11 people, are they the 11 people representing the ethnic groups in Turnhalle, or are they going to be new people?

BOTHA:

No.

FRENCH REPRESENTATIVE:

They are the people who are representing the groups in Turnhalle now?

BOTH A:

I Can't say that they will be exactly those that are there now. That I can't tell.

FRENCH REPRESENTATIVE:

So are they going to be designated or elected, which way are they going to be chosen?

BOTHA:

The various groups, the Kavango's, the Caprivi, Ovambo, are there; they're existing. They will in terms of their own procedures probably indicate or make a recommendation who they think ought to represent them.

MURRAY:

Mr. Minister, what was the significance of that 'range' you mentioned to us: 17 on the one hand to 23 or 24 on the other? What considerations made you put that forward as a 'range' of possibility?

BOTHA:

The reason for that is simply this: as you know for the Central Government envisaged at present by the Turnhalle constitution, there would have been

an Executive Authority, a Council of Ministers as well as a National Assembly. And the Turnhalle has not yet accepted that there would not be the two. So far they insist on retaining both. But there might just be a possibility that they might be prepared to consider instead of the two bodies, only one. If two bodies are to be retained, then the figure for the Executive body would probably be 17. If on the other hand they would be prepared to accept only one body, then the figure will probably go up a little bit. That is the reason, in all fairness.

MCHENRY:

Mr. Minister, I think I recognize the problem which you are trying to cope with and I think you probably recognize the one that we are trying to cope with. You do have an institution which was established and which, in your view, has been operating. You know very well that there is a great deal of criticism of that institution by other parties.

BOTHA :

What institution are you referring to?

MCHENRY:

The Turnhalle. Let us, in a practical sense, suppose that those of us here from the five countries decided that we had a particular view about something involving you and we propose that the five on your side join the 16 of us on our side, would you willingly enter into that? And we propose to operate not on a basis of consensus, where you had a veto, but on the basis of numerical voting? I don't think you would buy it. And I want to suggest here that if by those numbers one is proposing that

11 advocates of an ethnic based government, 11 advocates of a constitution which is questioned by a substantial number of people are going to constitute 11 out of 17, I don't think you'll get a yes.

People are involved in it. I don't think they would lend legitimacy to it.

Because their assumption would be, if I may use the language of a Mississippi gambler, that the deck is stacked.

BOTHA :

The deck is stacked right now, because South Africa operates in the country. It functions there, it has ministers in there.

MCHENRY:

I fully recognize that. But what we are trying to create is a situation where there is sufficient confidence on all sides that the institutions which will be operating between now and independence would be truly neutral institutions. And my question is, and I think what you've done in going beyond ethnicity is indeed a contribution. I don't want to denigrate it, but my question is whether the problems are really resolved ? And my first reaction is, that it isn't resolved.

BOTHA:

Yes, you are entitled to your view, Mr. MCHENRY, and I am glad that we can talk to each other in this straightforward way. Well, then I am afraid it is not going to be resolved. That is the only answer I can give you. Then there is nothing we can do for you, because I think we are moving away completely from what we understood to be the purpose of these discussions.

You see we were in a certain position ourselves. And what was that position? It was the Turnhalle position. You came and you said you don't want that at all at first. We then explained to you our commitments. We then got the impression that there was some understanding on your part of the irreversible commitments which my Prime Minister had. On that basis I thought considerable distance was moved, and if, what is envisaged here, Mr. MCHENRY, is a body that must be acceptable to all concerned for the interim period, then I say to you nothing will satisfy that kind of demand because even if, and that is not possible at all, but even if for argument's sake, we would have been able or the Turnhalle people or the Turnhalle constitution would not have been put into effect at all and nobody would have been instituted, then still the demand would probably have been that South Africa is not a neutral part. That South Africa must get out. We will not get to the end of it. This is my problem. And then I feel we might as well be frank with each other as you've been to me. If that is the case I foresee no possibility, gentlemen, of coming to an agreement at all. I just don't.

MCHENRY:

Our effort, Mr. Foreign Minister, I think, is not to come up with a pristine solution. We know that we will never get a situation where everybody, as you put it, is going to be satisfied with, that there is a total neutrality. What we want to, is to approach a situation where reasonable men can say that the institutions which have been created,

are providing a fair chance of free and fair elections. And what I'm questioning, and because I think I do recognize that in the changes which you propose, there seems to be a genuine effort to overcome the differences which we have. What I am trying to get at and I think this was behind Mr. MURRAY'S question of what was the significance in range. I am trying to get to see if there is not some way in which the problems which you have and considerations which you have to meet, can't also be done in such a way that they can meet the considerations which we could have had to meet.

BOTHA:

I perfectly understand that, and that is why I've said I appreciate the way in which we can conduct these negotiations. But there is no other way for me to talk to you but also not to mislead you. That I cannot do, and we have our limitations here. And I realize that and we're trying to overcome those limitations as best as we can, but there is a point beyond which we cannot go. This is my problem. Now, as far as this is concerned we are prepared to try again and increase the 17, that is crucial; it is not going to be easy. It is not going to be easy at all.

(INTERRUPTION)

I wonder whether I couldn't suggest that at this stage we leave this point of the numbers and you give me a chance first to see whether I can get them increased or not. If that is what you want, I mean. If you don't want it.

MCHENRY:

I don't want to give the impression that numbers alone are the only considerations. I am far more concerned with the substance of the thing, and I cite numbers only in so far as they have a substance to impact. I think what I will need to do, and I think what we will need to do, is to think about what you have suggested. But I think I can already say that the outline which you had given, gives me some problem in that I do not believe, as I put in my analogy, I do not believe that you would join the 17 plus on the basis of our pre-conceived ideas, on how to want something in which you are interested.

BOTHA:

No, look, I think that we must make something very clear here. South Africa, whether you recognise it or not, is still in charge of the territory and what we are trying to avoid is a war in the Northern part of the territory. What we are trying to bring about is a peaceful solution. Now, there are governmental institutions now existing in South Africa, and I take it you are not asking us to withdraw it. You have not asked us so far to get out. Indeed you said that ultimate responsibility must be ours. Indeed you said that this interim authority must not be based exclusively on the Turnhalle.

Gentlemen, then we must be frank with each other. And we must then start analysing what words mean. What does 'exclusively' mean then. Because I foresee a lot of problems. I foresee a lot of talk here; I don't

think we'll get anywhere. We get certain impressions and we put a certain meaning to a word used by you and maybe there is a difference there - a difference of interpretation.

Why can't we discuss that then, because the Prime Minister made it clear to you, I've got the notes from the outset, that he is committed to include at least those 11 members in the authority. You then came back and said as long as it is not exclusively based on the Turnhalle. Now, what do these words mean? What do these expressions mean? Please tell us then what you think ought to be done and not done.

MCHENRY:

If the word 'exclusively' was done to do just what you have suggested here, - in what we want to do is to recognize what commitments you said you had. At the same for us to suggest that we would be prepared to support or to recommend an institution which in essence is still controlled by a group which is highly questioned, would be for us to suggest something which we are not prepared to do.

BOTHA:

At what point will it not be questioned any longer?

MCHENRY:

I think that may depend and that might be one of the reasons why we might want to move on to some other things. That may depend on other institutions than we're talking about and may depend, to some extent, on the nature of United Nations involvement.

BOTHA :

Shall we then rather at this stage

FRENCH REPRESENTATIVE:

I would like to come back to the Canadian question and observation. There are several ways of organizing this administrative arrangement, and this truly would be advisory and you can have an independent representative of the State President or say an independent representative in charge of deciding administration and legislation with this body, but I think on an advisory basis, that is a different way.

SCOTT

Could I put in a thought which perhaps slightly elaborates what Mr McHenry has been saying. I think the situation which we would find it very difficult to accept, would be one in which, by a pure voting procedure - that is to say, a numbers game 11 to 7 - you could find decisions being taken in this body which would then recommend to the State President on which the views of the non-Turnhalle people could be so perverted out of court, without any consideration being given to them. You might then find yourself in a situation where the decision which was being recommended for acceptance by the State President for enactment to law, was totally anathema to all the other people involved. Now, one of our thoughts has always been that there should be a degree of consensus as I think Mr McHenry has said; it is very important that, although you won't please everybody all the time you shouldn't find yourself faced with a situation in which the whole constitution which results from this body is totally unacceptable; unacceptable in point that they won't participate in it, to a very large section of opinion in Namibia, South West Africa. So, that, I think, part of what we are thinking about is that if you rely on a numbers game, pure and simple, then you may get a pure Turnhalle-rule, because the numbers game on the basis that you suggest -

BOTHA

Well, you have it now. You have that rule in practice now.

If you analyse this, if you look at the territory at large right now, Caprivi is in effect being governed by the Caprivian government; so is the Kavango; so is Ovambo; so is the Rehoboth; so are the Whites. The Coloureds have got an Advisory Council; the Nama's and

the Herero's are governed by traditional leaders, they are not recognised officially but they are traditional leaders, Mr Kapuuo who is accepted by all these people whether you say it or not, that is a fact. And so was Josua Kotansa, his predecessor, whose bust is still in the United Nations and the United Nations accepted that.

SCOTT

But this is if I may say so

BOTHA

This is the practice, I'm talking about the practice right now. That is the case right now.

SCOTT

But I think we understand this in the field of local government but we are now, the purpose of this body is to enable a new constitution, elections to be set out and discriminatory legislation to be recalled. Those are the two purposes of -

BOTHA

But let us just proceed along that course right now. In theory and even in practice it would be possible right now for the Caprivi government, the present one, the Kavango government, the Ovambo government, the Baster Council, the white legislative Council, the Coloured Advisory Council, and the leaders of the Herero, Nama, and Tswanas and Damara's, together on their own, there is nothing constitutionally that prevents it, together in Windhoek or in Oshikati in the north and all of them through their separate institutions that they now have functioning pass a resolution and that resolution can then be forwarded right now to the State

President and he can sign it into law. That, gentlemen, is the present position. That is a fact.

SCOTT

With great respect, Minister, that is not how legislation takes place in South West Africa at the moment.

BOTHA

Well, look, are we going to be theoretical about it? The present Ovambo Government can pass, according to its constitution, a law on one and the same day as all of them pass it, reading exactly the same -

SCOTT

But not in the fields we are talking about. I think you are talking in terms of local government, which we fully accept that this is the position in local government.

BOTHA

Well, for the rest of the territory, apart from Ovambo, Kavanga, Caprivi, the white legislative Council can do it where the National party has got a full House. A full House. So right now the National party can govern Blacks without consultants.

CAN. REP.

But, basic governing is really done through the South African departments such as Bantu Affairs, Coloured Affairs, and so forth. This is not so.

R.F. BOTHA

Well, in respect of certain functions, yes. In certain functions the South African Parliament does it. That is true.

CAN. REP.

You said you could not give us any details on who you might be selecting, but couldn't you give us an idea of what kinds of people you might have in mind, from whom you would draw people for the Turnhalle for the interim authority outside of the Turnhalle?

BOTHA

Well, obviously, they will have to be, as a first shot, I could not imagine us agreeing to appoint people who are not recognised experts in their particular fields to start the interim fields; Medicine, Engineering, Administration or what have you. I just say that I don't know. I can't give you that answer because it seems to me it goes beyond a point that we must first get some sort of understanding on.

McHENRY

Where are the eleven from? Would the other 11 be selected on that basis? I mean, you are suggesting -

BOTHA

They are selected in terms of their existing instruments and instrumentality which we cannot change.

McHENRY

But the remaining ones, you are suggesting would be selected on a basis of some kind of professional qualifications.

BOTHA

I will have to undertake further consultations on that point, Mr McHenry, I don't want to mislead you.

FRENCH REP.

Mr Minister, may I perhaps, add one thing. It would be perhaps useful at this stage, to remember that we are not - as you said in the beginning - talking about setting up another government but that we are talking about an authority for an interim period and of course we all agree that administration has to be maintained during the interim period but otherwise, wouldn't you agree to the idea that this authority is merely there to prepare elections for a constituent assembly and is not making other laws beyond that. Of course we would also be doing away with discriminatory legislation and we have made the other points. But it is an interim authority; it is not a new government. Now, would that reduce the problem you are facing, that the ethnical groups must be represented with that importance, having in mind that we are trying to prepare electoral laws, recalling discriminatory legislation, but not beyond this.

BOTHA

But that was never the understanding. That was never said by us. We have made it clear from the outset that what we are in effect doing here is an administrative re-arrangement. We would like to withdraw the functions of certain government departments and I find it extremely difficult that people like you do not understand this, quite frankly. I find it extremely difficult because the very things that you really want to achieve, can only be achieved in this way. I find it very difficult that you force me into a position where I must almost spell it out for you, which I had hoped would not be necessary.

FOURIE

Take now, for instance, if I may add something what the Minister has said. You say they have got only very limited functions but in your own paper you refer to I think, withdrawal of discriminatory legislation. This is quite a wide task; this is not something that can be achieved in half a day; it is something that would require very careful and detailed handling.

CANADIAN REP.

Mr Minister, is it like that, in thinking that there would still be a representative of the State President or the South West African government in one form or another -

BOTHA

Now, look, we didn't want that at all, but it has been mentioned here. I would have hoped that you do not ask because we were hoping that that would not be the case at all. But, we have an administrator there now, in respect of the Whites, and we - all right, I will try and see what I can do about that point.

BOWDLER

Mr Minister, I don't think we are necessarily insisting on one form or another; I think that the point that we are trying to make, is that there is one thing that we cannot accept, is that this new body - not only in appearance, but in practice - would be dominated by the 11 of the Turnhalle. The addition of a few bodies here and there, would still present it to the world as if it is Turnhalle.

This is where we have had to bring in a new angle. We know your difficulties; and we are appreciative of the commitment of your Prime Minister, but this is why

it becomes so important to know whether there would be, for instance, a Head over that group or whether, and how many other members there would be, who would not at all be like Turnhalle, and the more you change the nature of this other part of the body, the more the body might become acceptable as a whole I don't know, for instance, if you are now telling us that in all probability - if you had a group of 24 - 13 would be selected on a purely technical non-political basis, non-ethnical basis, etc. this, again, makes it a different body, but if you say 11 plus 6, then I think as Mr McHenry said, it is too much Turnhalle.

BOTHA

I see your point clearly, but we have limitations.

VOICE

We, too, have (laughter)

BOTHA

I see what you are getting at, quite clearly, and this is my problem gentlemen; it is a severe problem.

WEST GERMAN REP.

Mr Minister, is it not also true if the information we have had, and the news from Windhoek, that the Turnhalle tries to build up a sort of political party - like movement. If that is so, this would even more aggravate our position, because if these 11 are, so to speak, not only ethnical representatives, but also in practice and in the eyes of the outside world, members of a new political party, moving up to a political force. That would even be more difficult in

such a body as you have outlined with others who have no political leanings or the other political parties would not be involved at all; so we get a political impact on it which we don't want, this should be as neutral as possible.

BOTHA

Listen, I am aware of these Press reports that cause this considerable difficulty and I can tell you here in confidence that there were certain members of the Turnhalle group - if I may use that collective term - who wanted it to be that way, but there was such severe dissent amongst themselves on this very point that if you mention that point to them, they explode. It is a point I don't even mention to them, because there is not the slightest possibility of that happening. That's all I can tell you right now here; not the slightest possibility. They are not prepared to do it themselves because there are differences of opinion amongst them. This is what I want to make clear to you; on many matters, on many many matters. It is not a homogeneous group you are dealing with here, at all. Believe me, there are substantive matters on which some of the Black and government representatives disagree with the Whites and vice versa, and some of the Northern peoples disagree with as far as some of the Southern peoples disagree, substantive matters. So that is not the case at all. That is, as far as I can take it. Now, I don't know what will happen in future; that I don't know.

McHENRY

We come back to the suggestion posed by our French colleague, which was to what extent have you considered of a combination by where the objective which you have of returning administration to the territory, is accomplished by a professional or at most two or three

professionals, who are advised by a body similar to the body which you have been discussing. But where even that body is truly neutral and cannot be said, or be dominated by a pre-formed group. It is, if I may say so, something like, I don't know what the South African experience, but it is, sort of drawing from an American experience, the city manager or commissioner of way of operating.

BOTHA

We have not considered this. This is a new idea mentioned here this morning. I don't know to what extent it ties up with the other suggestion that we put a representative there. We would have wished to withdraw our administrator who is really only an administrator as far as the Whites are concerned and not replace him at all; not replace him at all. Because of the difficulties experienced in administration, possible different views, we don't want to be at the target side. So this is a new concept I cannot give you an answer, quite frankly, at this stage.

McHENRY

What I am trying to suggest is, what I am asking is if this isn't a way, and obviously even in my own mind it's defined; I am trying to find some kind of way where the running of the territory in this period is put as much as possible on a non-political basis of where the idea is in essence, the political job during this interim, to put the political job during this interim in the hands of as apolitical a party as possible; but recognise that political factors enter into all kinds of decisions and therefore isolate the political factors over in an advisory proof.

BOTHA

You see, if Turnhalle or that body wishes to withdraw discriminatory laws, it makes it easier for us to accept it because we can say they have done it, not us.

McHENRY

I fully recognise that. I understand that.

BOTHA

You are putting us more and more in a position where we must take those decisions which from a political point of view we cannot take.

McHENRY

I fully understand that and it seems to me there is a way out of that one to and that something like this does not preclude that I mean, there ought to be ways of building a constitution around that. I see you are trying to isolate yourself from those decisions and I understand the politics of it.

MURRAY

Mr Minister, I wonder if you really see the importance we have got to attach to objectivity; no-one expects a government to be objective, of a government that has got a policy. This institution as you yourself, is not a government; you are not setting up a government for the territory; you are only setting up a body whose most important role for the future is creating a constitution to set up a government. It has got, in the meantime, to do certain functions of a government which is to arrange for the repeal of

BOTHA

No, that is where I don't quite agree with you.

MURRAY

That is so important.

BOTHA

It doesn't prejudice open, fair elections that can come later. In all of your countries you have got authorities; you have got city authorities, state authorities, provincial authorities, central authorities. I have not heard any of you alleging really here, although, of course, the United States if you are the incumbent, the incumbent factor - we are aware of it, it helps you, you are on TV and that kind of thing; yes, it helps you.

MURRAY

But it is very difficult for you to rewrite the constitution.

BOTHA

No, wait a bit. I thought then that the understanding was that there would later come a constituent assembly, elected openly and freely. Now you are hitting us on this interim authority that we need to do the very things you want us to and I don't understand this attitude on your part, quite frankly, because nothing is prejudiced, nothing is prejudged, because there will be open and fair elections at a certain stage.

McHENRY

But I saw, Mr Foreign Minister, that the interim authority will set up the regulations for the elections.

BOTHA

Sure, they will set it up but those regulations will then be submitted if I understand you correctly, to the United Nations official who are there or one of staff. I thought we talked about that, I thought we moved a long way there.

MURRAY

Yes, we did indeed talk about that. I think what we and that is why I suggested earlier that, we are talking about package and it may be impossible to name the compensation from one place, to take the difficulties to another and I have that very much in mind but I still think that in order for us to, and indeed in order for you, to develop enough confidence in all the people concerned in the Namibian question it has as much as we can at every stage, have to have institutions of which people believe are neutral. It does no good - it would do you no good, I think - to go ahead and build something, go ahead with things only to discover that it had 10 years of fighting on the border up there.

BOTHA

Well, if the alternative means more fighting and more killing -

- alternative, that is stating it in the extreme -

BOTHA

Yes, but the extremes are becoming the realities in Africa more and more every day.

McHENRY

Let us not talk about the extremes. The alternative is for men of goodwill to work out institutions which as much as possible can meet the demands of reasonable people.

BOTHA

Who are the reasonable people?

McHENRY

I think on this issue, our experience has been that there is reason on the question of Namibia; I try to specify

for you the reactions which we had gotten to this point on our discussions. I don't believe that those reactions, once you dismiss some of the public rivalry I don't believe that those reactions thus far are unreasonable and I do believe that it is possible for us to work out something which can satisfy reasonable men. My own experience is there is very much recognition of some of the political problems that you are referring to.

BOTHA

Yes, the problem of course, is that there might be a difference of opinion as to what constitutes reasonableness.

BOWDLER

Can we use an example Mr Foreign Minister? We have the situation for instance, in the United States, where you have two main parties and we had to change the constitution and prepare for elections and redistribute the electoral map, and if you ask the people to accept the body that would be then dominated by the Democratic Party only, I don't think this would be acceptable. You will have to find a formulation in which to give a voice to the Republicans and a lot of others.

You could not entrust such a basic fundamental job to a single group or a body dominated by a single group and in present circumstances, as you know, the body dominated by the Turnhalle group, is not internationally acceptable. This is our problem, and what Don is trying to do and what others are doing. You either balance to a sufficient extent within the same body or you interject an intermediary body over that one in order to give this not only the appearance of neutrality but a real neutral character to the body. If you ask Turnhalle

itself to prepare for elections, I think that everybody would conclude that obviously they will prepare elections in a way that will permit them to continue later. If you ask one to describe a circumscription it is likely that it would end up as a circumscription bound to elect the same people.

BOTHA

But why, if there would be an United Nations official stationed during the campaign and the election to see to it that all persons who want to propagate a certain view, can do so peacefully. In what way can that not be achieved?

BOWDLER

Because there's doubt in our view that the deck would be stacked or at least there would be a fear right from the beginning that to take a stand against certain parties against, or

McHENRY

Let us put it this way, the United Nations would be brought in to see that what, let us say, a group dominated by Turnhalle has decided and the United Nations in essence would be brought into see that the rules and regulations which they have set up, are fairly carried out. The United Nations is in essence is lending legitimacy to a deck which is already been stacked. And nobody is going to buy that.

MURRAY

Or, alternatively, there is a position of perpetual friction between the administration and the United Nations, which is a situation that we certainly want to avoid. We don't want the United Nations here as simply a critical body which finds it necessary to criticise every step taken.

UNITED KINGDOM REPR.

It is also a question of symbolism; I think symbolically it would be very bad if a body who represented them is dominated in numbers, let us say, by Turnhalle, it would engender suspicion that everything that would follow, would be suspect.

BOTHA

But would we not be in that position in any case?

McHENRY

What you want to do, is to reduce it as much as you can, and that is all we are suggesting; reduce it as much as you can. We are not going to eliminate suspicion from this world -

This is the point.

McHENRY

.... and we are not trying to eliminate suspicion from this world. We are trying to get it to the point where it is at its irreducible minimal.

BOTHA

But say, for argument's sake, that a position can be reached where that body isn't then - numerically speaking, just numerically speaking now - not stacked and they still or some of them, agree to that Turnhalle - proposals of the 11 who can be identified later, let us be frank with each other about it, then in any case, the world is going to say it is still a lot of clowns. It is still a lot of puppets. These are puppets. We are not going to get away from this apparently.

McHENRY

We are never going to get away from people saying anything they want to say. What we want to do is try and introduce conditions that reasonable men can support.

BOTHA

Gentlemen, I wonder whether we couldn't, I will have to consult my Prime Minister on this very crucial matter. It is a very crucial matter; it seems to me that a lot of our further talks would depend on this very issue and I must ask you for time to consult first with my Prime Minister and possibly with some others as well. So I wonder whether we couldn't now leave this matter for tomorrow.

MURRAY

Could I just make one more point before we leave. Sitting in New York it is clear to me that there would be a very grave risk that the United Nations would simply refuse to be involved in elections in which the administering body would simply be regarded as Turnhalle under another name. Therefore as it were, your second safeguard would never get a chance to operate because they would say, well we cannot even be involved in this because the deck of cards is stacked from the outset.

BOTHA

I fully realize that we have come to probably a watershed in our discussions; I fully realise that and so much we can do, no more, and if this is then the breaking point and I hope it isn't, then, at least, let us - like men - accept it then, but I will first have to discuss this with the Prime Minister.

GERMAN REPR.

Mr Foreign Minister, may I offer one point for consultation, perhaps to look for groups or representatives of groups who could have not only a moderating influence in the whole process, but also have a widespread recognition; I think of the Church. I don't know whether you on your side, I don't give a hoot whether you on your side include the Church as a factor in it; I don't ask an answer now. I only wanted to offer it because we know that the Church plays a role there. I don't ask for an answer now.

BOTHA

But you see, you're introducing a further complicated element here. The Church and politics, do you really think ought to be mixed.

GERMAN REPR.

Well, it is having the confidence of a widespread part of the population.

BOTHA

I suggest we talk for a further 5 minutes, then I wish to offer you tea and coffee, which we can have in the other room.

CANADIAN REPR.

I would like to raise one point in connection with this and I think it may be helpful in our subsequent discussion and that is whether you have reached a decision on the functions to be transferred from Pretoria to Windhoek under the new system. That could help us in looking at the nature of this body that is to be established. And it may provide an avenue for developing something which is non-political as has been discussed here. You might want to consider that and give the group some elucidation of your thinking.

BOTHA

Well, I can just say, by way of preliminary remarks. The South African government governs through State Departments; they govern through State Departments. Our State Departments are non-political to a far greater extent than is the case in the United States. The permanent Public Service people. But they all get their directions from a political man, a Minister. Now, some of these State Departments do operate in the territory; they have offices in Windhoek and elsewhere in the territory. But they all operate under direction of a South African Government Minister. Now, what we want to achieve - and we thought that was in line with some of your objectives - whether at least a beginning can be made rather to withdraw some of these functions, and some of the political directions, maybe, that emanate now from here. And if I understand you correctly, you just want the reverse now. You want to protect it.

CANADIAN REPR.

No, I, in the earlier discussions I think you indicated that under your thinking there would be a transfer of responsibility from Pretoria authorities to authorities in Windhoek so that these functions would be directed from Windhoek rather than from Pretoria.

BOTHA

That will be the case.

CANADIAN REPR.

What I am asking, is perhaps if you could give us a list of those functions that will be transferred for performance from Windhoek, that this may provide an element that will help us in further discussions of the

design of a non-political or a less-political administrative authority.

BOTHA

Well, I can't give you a full list. In the nature of things I think, you will agree with me that these things can't happen overnight, even if the authority is there. The questions such as funds, personnel secretariats, things like that. These are complicated matters. It is conceivable that this authority might eventually have only a few functions and in practice these functions might be added to as the need arises; certain functions would probably definitely be excluded, like Foreign Affairs, like -

VOICE

Security

BOTHA

Defence, possibly - what would you still

FOURIE

Veiligheid, Security, it is part of my list.

BOTHA

Communications, Transport, which they simply cannot handle. Communications they can have, we're easy on that, as long as they pay!

I can't give you a full list, quite frankly, because we haven't gone into that quite clearly, but it will be mainly day-to-day administration; Water Affairs, for instance, I don't know whether they will be able to handle the water story. Road Transport Services

Yes, we thought that as the need in practice arise functions would be transferred to them and as they can handle it in terms of their own manpower arrangements.

CANADIAN REPR.

I thought you were going to suggest a prayer, Mr Minister, after the observation about the inclusion or non-inclusion of the churchmen in the Administrative Authority but what I was going to say before that, when I thought discussion was coming to an end, was to give my answer to your previous question about how can we avoid people saying whatever we establish is not reasonable, is not fair. I think that it is certainly partly our job as my government views it as its role in this, and I am sure the other governments do. Once we are convinced that what is established is reasonable, is fair, is neutral politically, that we can go over and convince the other parties directly concerned that it is that way; and even so there will still be criticism as Mr McHenry has said, but if we are convinced that it is reasonable and fair and neutral a possible and as far away as we agreed, it is not for saving the Turnhalle interim government by another name, then we will use whatever influence we have. Perhaps it is appropriate that the power with the least influence should say this.

BOTHA

Thank you very much for that observation; like that of Mr McHenry may I suggest that we now have tea and coffee, gentlemen, and could we arrange perhaps that we adjourn then.

MURRAY

Could I just make one more point? You did say you are going to consult your Prime Minister. I hope when you do, Sir, you won't suggest that in any way we have changed our ground since last time. Because we made it very clear to you last time that if the essential administering authority was described, appeared to be in any sense to be Turnhalle under another name, we didn't see how we, with the best will in the world, could advance the process of negotiation. It will be clear from the questions we have been posing to you that our impression from your presentation is that this new transitional authority in fact, is going to be jolly close to Turnhalle under another name and this explains our reserves.

BOTHA

I have a fear that it is going to remain close irrespective of what we do? And now we are losing on both sides. We are losing on the South West Africa side, they lose their confidence in us, and do we get no agreement, so we are, doesn't matter what we do we are the losers.

I have taken that remark into consideration (Inaudible remark). I don't know whether my Prime Minister will agree with those views.

May we arrange another time for meeting?

McHENRY

Could we also discuss the question of the Press? Which is that we hope to proceed the same way we did the last time?

BOTHA

Yes, please, especially on this question (laughter).

McHENRY

When shall we meet again?

BOTHA

You see, it is just conceivable that we will have to talk to some other people as well. Have you got suggestions? 2.30? Let us go and have tea.

PRIME MINISTER

Gentlemen, you met this morning with the Minister of Foreign Affairs and others from his delegation and I have now had the opportunity to discuss matters briefly with the Foreign Minister. You will allow me to say, gentlemen, that when these talks started I welcomed it because I sincerely believed that it would lead to a solution of the problem and was in that spirit that I entered into the negotiations.

After I've talked to the Foreign Minister, I must candidly tell you that I don't feel optimistic at all, at this stage, that we are making progress. On the contrary, I must say - you must correct me if I am wrong - that your rejection of what has happened in Windhoek in the Turnhalle and indeed, if I may so, your animosity to the Turnhalle makes me say that I don't think we will reach a solution. And I am very serious and honest when I say to you that I cannot understand why this rejection and why this animosity.

In view of the fact that Turnhalle and the leaders who gathered there as representative of the people of South West Africa as you will ever find; did more to pave the way for a solution than all of us put together and all that was said in the United Nations

throughout the years. And therefore I must say again that I fail to understand why you reject them in the way that you are doing. Why apparently nothing that they have done is appreciated and nothing that they have suggested so far, it seems to me, is acceptable. After all what did you ask us to do? You asked us, I think, firstly that the territory as a whole should become independent. You put greater stone on the territory as a whole, I think I am correct in saying, than on the independence itself.

If it wasn't for Turnhalle, then

- (a) You would not have had a date today of the 31st of December as the final date of independence and it can naturally come even before that date, and,
- (b) there would not have been any hope of making the territory independent as a whole.

That was achieved by these leaders who met and who didn't decide upon that just in a few weeks but it took them years to get to this point and if you now shoot them down as apparently you are doing, then really, gentlemen, I cannot see a solution to the problem of South West Africa at all.

But if, on the other hand, you want the territory independent, you want it independent as a whole and you want elections which are seen by each and everybody to be free and fair, then I candidly fail to understand why you take up this attitude.

If in fact, you have the interest of the people at heart and you want the people to express their wish, then again fail to see for whom you are batting in your arguments and for what reason you are shooting down Turnhalle. If we, naturally gentlemen, can't find a solution, then you are going to make the situation impossible for me and then you allow me very

little scope, in fact you allow me only two alternatives, and that is either to pull out straight away and leave you with the baby, regardless of the consequences, or to go along with the Turnhalle Constitution and take my risk with the international community. I don't want to do either. I came to you I think with fair propositions, but as it stands now I frankly don't know where we are and therefore I will be very pleased if you will enlighten me on this point.

MC HENRY

Mr. Prime Minister, I wasn't in your briefing this morning, but I would say this that I don't believe that we had here this morning either rejection nor the degree of animosity of which you speak. What I thought we have and what I hope we still have, is an effort to marry two political realities. One of them is the one which you have spoken of frequently. It is the existence of the Turnhalle group. It's several years of work. It's commitment towards certain kinds of government, and what you have told us is your commitment to them.

The other political reality is one with which we have to deal, which is the fact whether it is agreed with or not, that there are significant elements both within the territory and outside, who do not believe that the Turnhalle group is fully representative. Now what we try to do here, is not address the question of the Turnhalle Constitution or to get into a discussion of the pros & cons of it but to try and see if we could not establish some kind of approach where your commitments were indeed accommodated and where we had some possibility of getting a degree of support which would make the whole thing credible. And it was for this reason that when we set our aid-memoire of the 30th and the Foreign Minister referred to that this morning, that we suggested that a proposed Central Administrative authority not be exclusively Turnhalle-based.

It was an effort to recognise what we took to be the political necessity, which you expressed to no that that group be represented. At the same time we have felt that it would be necessary for having that group represented. It was necessary to get as politically neutral an administration of the territory in this interim period as was humanly possible. That does not reject the participation of the Turnhalle group, but simply tries to ensure that no one can say that decisions with regard to the territory have already been made, or are likely to be made in a particular manner,

simply because of the composition of the interim administration.

One of the things which we suggested this morning as a possibility was some kind of manner in which the two concepts were combined. That is some kind of strictly neutral administration supported by the kinds of political realities with which we both have to deal. And I think that was one of the suggestions which we gave to the Foreign Minister this morning as the kind of thing which might accommodate both of our difficulties. I don't think it would be useful for us here to get into any warm discussions about the merits and demerits of the Turnhalle people per se or the Turnhalle Constitution. What we want is a process with which people have sufficient confidence that that territory can come to independence in a peaceful manner so that we are all done with it, you and we.

PRIME MINISTER

But when you say, Mr McHenry, that there are significant elements inside and outside the territory, what leads you to say that?

MC HENRY

I think our observation is that there is an element of the population which would prefer to be based, to be governed, on a non-ethnic basis. Let's face it, there's a SWAPO inside, there is a SWAPO outside which does not go along with the current proposals. But I think that is really all beside the point. What I should think that you want and what we want is a situation where it can be said that people have an opportunity to freely decide the future of the territory and where it cannot be, where reasonable men can be persuaded that that was the case. And it cannot be said that the nature of the government was something where there was no choice.

PRIME MINISTER

But the whole aim and object, Mr McHenry is to draw up the regulations and to have a free election, and in the meantime to transfer the powers which the South African Government still holds over the territory to an interim government. That is the whole aim and object. And I fail absolutely, fail to see, if that is the object, why you gentlemen stand in the way of that.

McHENRY

I think what we see is this: And one of the horrors of interim governments all the time, is that people jockey in the interim for positions which they really want in the final government. They want to get themselves in a position where they can influence in the nature of the final government. And as much as possible an interim government want not to have those characteristics. It ought to be something where the nature of the government is something which is to be decided on the basis of the election.

BOTHA

But would you consider the present Owambo Government for instance as an interim government, the existing?

McHENRY

I'm talking about a national basis Mr Botha. I don't want to address the local questions at this point. I'm talking about a national government.

BOTHA

But whatever government is there would in the nature of things be interim in the sense that it would precede elections to elect an independent government eventually.

McHENRY

That's right.

BOTHA

You see, our difficulty is that, as I said this morning, that you agree that there must be a government, a form of an administration, and we don't seem to appreciate why you are so much against it.

McHENRY

It's not just us, as you know. It's our governments, it's the United Nations, it's other parties involved, who have stated very clearly that the interim government must be seen to be something other than Turnhalle. It's symbolically - if it is seen to be or regarded as not much more than Turnhalle by another name, we would not be able to get the acceptance that we need to be able to progress towards a solution which we desire.

PRIME MINISTER

You see there we differ profoundly, because as I have said, do you question the fact that these people, the Turnhalle people, were in fact as representative of the people as you can find. If you question it, then we can argue it.

BOWDLER

Mr Prime Minister there is significant questions about it. I do not want to get into the arguments on any particular delegate in Turnhalle. I think that the problem is that there is sufficient question on the neutrality of it and I can't see anything wrong at this stage with creating something which is neutral.

PRIME MINISTER

You see, I find it strange to say the least of it, that these people have been there for three years. Not a word was said whilst they were in the process of finding a

solution. Now that they have finished, now all of a sudden they are not acceptable. That makes it extremely difficult.

SCOTT

Mr Prime Minister, with respect. When we had our last round of talks on this we did in fact, as I understood it, reach agreement on, in fact all of us reached agreement round this table that we did not see something which was the Turnhalle by another name being internationally acceptable. We certainly didn't display animosity towards the Turnhalle, and we certainly are not saying that they should not have any part in this but merely that if this, the government, the interim administration, which is set up appears to be in the eyes of the world the Turnhalle by another name, then we have already, I thought reached your agreement that this would not be an acceptable solution for going ahead on the administration which will set up the preparations for the elections.

PRIME MINISTER

I'm afraid, Sir David, that does not solve my problem.

SCOTT

No I can see, Mr Prime Minister, your problem is a difficult one.

PRIME MINISTER

Therefore the question that excercises my mind is whether at this stage it is worthwhile carrying on with this part of the conversation. I must reserve my rights on this and maybe we will serve a better purpose to carry on with the other business.

McHENRY

Could I ask, Mr Prime Minister, whether you do have any reaction to that suggestion we did make this morning.

PRIME MINISTER

Perhaps the question should be addressed to Mr Botha, I don't know what ..

BOTHA

The Turnhalle representatives are still discussing, I had them here soon after you left and I hope we might be in a position later this afternoon to be in a better position to answer that question. I fully support the Prime Minister's suggestion at this stage. Let us skip this as being a problem and maybe we could discuss one of the other matters.

PRIME MINISTER

Yes, maybe that would be best.

Mr Fourie brought my attention to the fact that as you know I am committed in view of the fact that my Parliament rises at the end of June to pass certain legislation. I want to make it as short as possible and therefore the legislation will have in fact only one clause and it is not finalised yet. I will give you a copy of it the moment it's finalised, but it will read more or less as follows: "The State President may by proclamation in the Gazette make laws for the territory in relation to any matter and may in such law repeal or amend any rule of law including this Act and another Act - this is a change I might say to the SWA Constitution Act - and it is by the substitution for sub-section 1 of the following sub-section: Repeal or amend any rule of law including this Act and other Act of Parliament insofar as it relates to or applies in the territory or is connected with the administration thereof or the administration of any matter by any authority therein; - Repeal or amend any act of Parliament to make different provision to regulate any matter in his opinion requires to be regulated in consequence of the repeal or amendment of any Act in terms of this paragraph. Then further by the substitution for sub-section 2 of the

following sub-section without deviating from the generality of the powers conferred to on the State President by sub-section 1:

- A. Law made by the State President in terms of the said sub-section may also provide for the establishment of a central administrative authority and the powers and functions thereof.
- B. The establishment of territorial authorities for the Damaraland, Hereroland territories and any other territory and the power and functions of such authority.
- C. Determination of the administration of Walvis Bay as if it were part of the territory. And then thirdly by the insertion after sub-section 2 of the following sub-section 3: If any authority is by any law made in terms of sub-section 1 empowered to make laws a law made by such authority by virtue of that power shall not be a force and effect until it has been approved by the State President." That gentlemen, in short, will be the whole Bill that I will put before Parliament. But I will give you copies of it the moment that it is finalised. If there are any objections or observations in general that you want to make now, I will be pleased to hear you on the point.

McHENRY

I think, Mr Prime Minister, there is only one objection now which - not objection but one observation which we want to make. I think that is to draw your attention - maybe I don't need to draw your attention to the intense controversy of which I take it, has already been aroused or will likely to be aroused with regard to Walvis Bay. It is a matter which I don't think we want to go into at this time, except to note that it is a question which is likely to be one where there is going to be continued controversy.

PRIME MINISTER

Do you mean to say that UNO or you or anybody else will lay claim to Walvis Bay as not being part of the Republic of South Africa?

McHENRY

Sir, I'm not saying that. The only thing I am doing is making the observation which I think you have addressed, at least I have read statements of yours where you have addressed, where you have yourself acknowledged that others have discussed this question in terms of claims - I'm not advocating - I think what we want to do is simply flag it as a question which, whatever the outcome of our discussions, is likely to be one that we all have been living with for a long time.

PRIME MINISTER

Well I must say candidly I am extremely surprised that you put a caveat behind this, Mr McHenry, because then in actual fact we might just as well pack up now.

McHENRY

I don't see that we have put a caveat around at this, Mr Prime Minister. I think what we've done is the same thing that you have done in your statements when you have addressed the question on earlier occasions. And what we have also done is to acknowledge, as I have seen happened in many instances when one is talking about the question of self-determination, that this becomes an issue, whether one likes it or not. I don't think we are addressing at all the merits of the case in any way, but I recall in the cases of the Indian Ocean territory that this whole question of - that it came up and I probably could cite many other instances where areas had previously been administered together for one reason or another and whatever the legal situation, they

had previously been administered together. And where there was an expectation on the part of some of the parties that that might continue. I do not demean at all in stating it as a matter of controversy, that would putting any caveates on it. I think we are acknowledging the fact.

PRIME MINISTER

May I ask, gentlemen, whether Mr McHenry speaks on behalf of you all as far as this matter is concerned?

SCOTT

Mr Prime Minister, I wonder if you could repeat quickly the phrase about Walvis Bay which is in the Bill.

PRIME MINISTER

"C. Determination of the administration of Walvis Bay as if it were part of the territory." If I may just enlighten you, you will recall gentlemen, that in 1922 because Walvis Bay was never, and I repeat never, part of the mandated territory. It was in fact ceded to the Cape Colony in 1884 by the British Government and it was administered from the Cape Colony up to 1922. In 1922, purely for administrative purposes, an act was passed by the then Union Parliament, now Republican Parliament, saying that henceforth Walvis Bay would for purely administrative purposes be treated as if it was a part of the mandated territory of South West Africa. But the act made it perfectly clear and you will recall that according to the Mandate we had the power to administer South West Africa as if it was part of South Africa. That's in terms of the mandate. And that certainly did not make the mandated territory a part of South Africa. Then if Mr McHenry is right in his argument by saying that because it was for administrative purposes transferred in 1922, it must now be looked upon as part and parcel of the mandated territory ...

McHENRY

Mr Prime Minister, that is not what I have said.

PRIME MINISTER

You can correct me now - that is what I understood you to mean to say ..

Mc HENRY

No, I did not say that, I'm sorry. I said we were not addressing the legalities of this situation at all. That we were simply flagging an area that is already in question, already has been raised, likely to be an area of controversy. It is not something that we have taken any position on. I do not question the facts which you have just given us at all. What I did say about the administration, I simply stated that in the past even in those areas where the kind of legal situation which you have outlined to us was the same, this question of not wanting to recognise the outline you gave us has always arisen whenever you have had territories which have been administered this way. It's an observation of fact which I am making. I'm not making an argument at all about the political, about the legal situation in this territory. I do not question the facts which you gave me and I don't believe that what we were trying to do is anything more than flag an area of possible friction.

BOWDLER

Mr Prime Minister, I'd like to thank you for reading the phrase again, and as one of those who lives here to say that that is exactly what you have told me last September when I first called on you and what you have said many times publicly and privately on the legal position, and as Mr McHenry says we are not disputing at all.

PRIME MINISTER

But then if you are not disputing it gentlemen, then I take it that nobody wants to take away what is legally ours and then no dispute can arise. Because let me tell you candidly that we naturally will under no circumstances entertain any such claim. Be the consequences what it may.

FRENCH REPR

It is not very important to the main part of our talks I should say. Maybe we could examine some other topics and then we shall examine the position.

PRIME MINISTER

But gentlemen, you will appreciate that we are trying to solve this position, find a solution to this problem. And if you now tell me that we are going to be confronted with another problem immediately after we have solved this one, then you make it more difficult for me.

BOTHA

For instance the Southern border of South West Africa is not the middle of the Orange River, it is the Northern Bank. So there is no access to the river. Are we going to have a controversy about that?

Are we going to have a controversy about the borders of the Caprivi, because the Caprivi was administered for many years directly from Pretoria, sometimes by the British High Commission. You see then I don't - there is a resolution of the United Nations declaring the borders of all colonial borders inviolable. Now where are we moving to. I don't know. Those borders were described, and they were covered by the United Nations resolution, declaring all colonial borders. The only thing the United Nations accepted without reservation from colonial times. We did not make those borders.

FRENCH REP

I don't think we deny the rights of South Africa from a legal point of view, but in fact there is no territorial continuity between a small spot like that and the mainland of South Africa.

BOTHA

No, 12 islands in addition, for your information.

McHENRY

But the point I think - and I want to get back to this is that we are not proposing by making an observation of fact. I don't want to get into a discussion about the legality or indeed of the political situation with regard to Walvis Bay. I think the observation which we wanted to make is one which as I say, I have read the Prime Minister making statements many times. On many occasions, he has addressed the fact that there is a controversy in some people's minds about Walvis Bay, and I think what we were trying to do is flag it.

PRIME MINISTER

Well I note gentlemen, what Mr McHenry has said but I must say to you here and now that that Act of 1922 will be repealed. Having disposed of this, may we pass on to the other matters that you want to raise, gentlemen?

McHENRY

I think the next thing which we want raised is to explore with you a little further the question of UN involvement. I think we also this morning - the Foreign Minister made the point and I also made the point that these things are not unconnected. In our last talks it seemed to us that you were agreeable to a UN role in Namibia which called for the Secretary-General being fully satisfied with developments in each stage of the political process. And various

parties with whom we had talks since our last talks, including the Secretary-General, all emphasised the importance which they attach to the UN role, although at no time have we got into an elaboration about the nature of that role.

We see, at least at this stage, three different aspects to a UN role. Firstly is the role of the UN in any negotiations on Namibia. Now in a sense the UN is already engaged in our discussions. As we pointed out earlier today we did brief the UN, especially the Secretary-General about those discussions and we expect to continue to do so. Moreover, we think that at an appropriate point it will be necessary to have some kind of formal discussions with the Secretary General about his role, and since the Secretary General does not act without a mandate there will have to be some kind of formal UN action.

The second aspect that we see is the nature of UN involvement in a transitional period and in the electoral process. We understand from our last discussions your aversion to the phrase "UN supervision and control", and we believe you understand the importance of this concept to the other parties, and as we discussed last time we might best therefore concentrate our attention on the substance rather than the language leaving each of us to deal with the political characterisations which are differing as circumstances might necessitate.

Now turning to the substance which is the third aspect - the range of UN activities. Each of our governments attach particular importance to those elements of resolution 385 and to what we call UN supervision and control. We are only now beginning to consider the characteristics of an optimum UN role. We do not yet have the views of the Secretary General or of other parties. However we wish to convey our preliminary views and our hope that this will make some contribution towards your agreement.

We believe that a substantial UN presence throughout the transitional period can accomplish a number of tasks. First they can greatly assist South Africa and the other parties in the achievement of orderly, rapid and internationally acceptable movement to a free and independent Namibia. And secondly it would give indispensable assurance to all of the parties of the impartiality of the transitional administrative arrangements which we've spent so much time discussing and of the subsequent electoral process.

To this end we believe that the UN presence should begin at the earliest possible stage in the establishment of the transitional administrative arrangements. We think that at its peak it could involve a substantial number of persons but we don't want to be in a discussion of numbers. It would best be determined by operational requirements. That is what does the Secretary General need to carry out his task. That again, we have not discussed with him. We see the principal functions of the UN presence as foremost to satisfy itself that the political environment in Namibia will ensure that the electoral process is characterised by an unimpeded, open campaign and that it culminates in free elections.

Second, to observe administration during the transitional period in order to ensure that there is no bias in the political process in favour of or against any particular faction or personalities.

Third, to monitor the enforcement of law and order, to ensure the establishment and preservation of a climate necessary for the development of the political process of which we speak.

Fourth, to satisfy itself that all parties implement the agreements regarding Namibia, including the agreements on the phase withdrawal of South Africa and the assumption of authority by Namibia. Now we have previously suggested,

I think we've suggested when we were here the last time, the possible establishment of an international Commission of Jurists to settle disputes which might arise in the electoral process. We have given some more thought to that and we think that such a commission might consist of five members appointed by the Secretary General. Two of the members could be South Africans. The President would also be designated by the Secretary General. Decisions would be made by majority with the President having a casting vote, and that such a commission should be autonomous and empowered to make final decisions on disputes.

PRIME MINISTER

If you have five, a casting vote is not necessary.

Mc HENRY

Well, it is, if one of the guys disqualifies himself for some reason.

Then you will have two and two and it will be necessary. I think those are our preliminary observations but we thought it would be useful to make them so that you have some indication of ...

PRIME MINISTER

Any more on this point, gentlemen? From our side, Mr McHenry has raised certain issues which were not raised the last time and therefore as far as these issues are concerned I am not in a position to reply to it now. I will have to study it first before I give you my reply on it. I'll have to discuss that with my colleagues before I do. When we met last time it was tentatively agreed upon for instance that there would be an equal number with the President having a casting vote, now it's not so. That certainly is my recollection of it.

BOWDLER

Prime Minister, I think perhaps we have a slightly different interpretation of it. Because we consider the five-member formula. You have an equal number. There is two South Africans and two others. But I think perhaps where this misunderstanding arose is that we ourselves have always thought the president would be a part of it.

FOURIE

Also a South African?

BOWDLER

I think that we always envisaged that there would be an extra man standing aside as the President.

PRIME MINISTER

No, we distinctly said last time that it would be equal numbers and that the Chairman would have a casting vote.

BOWDLER

Perhaps we had a slightly different interpretation of that. As to the number of the Commission itself, we had equal numbers. But I think we thought that there was an extra man...

McHENRY

In any event I don't think our effort was to change from last time and I'll have to look at that paper.

PRIME MINISTER

You've got it in the paper itself.

BOWDLER

I might read what was in the original paper and that really supports the Prime Minister. "Disputes might be settled by an independent Commission of Jurists appointed by the Secretary General which could include an equal number of South African Jurists - having a casting vote.

PRIME MINISTER

In our document it says "would" not "could" include.

McHENRY

Well, I think the whole thing was cast in could's because ..

BOTHA

Wel dit is duidelik dat daardie "c" is vervang, ek kan dit sien met my eie oë - hy's uitgegee en vervang.

McHENRY

In any event, I don't think we are backing away from the concept that we expressed before.

PRIME MINISTER

Well, I might just say to you gentlemen that I have already reported to my Cabinet that there would be an equal number and I can't possibly go back to them and say, no there won't be an equal number, there will be one less South African jurist - that's just not good enough.

BOWDLER

Mr Prime Minister, if we have the equal number, it raises the question of who the president will be with the casting vote. And we did envisage someone who was entirely outside the framework of the Namibian problem. In fact in our original proposals we were thinking of the legal officer of the United Nations

or some direct appointee who was in no sense involved. The two South African judges, no matter how right they are, how Angel Gabriel they are

PRIME MINISTER :

I have no objection to the individual; I don't know him. But in view of his office I have no objection to him being the chairman with the casting vote. All I'm saying is there must be an equal number including that gentleman.

FRENCH REPRESENTATIVE:

We don't disagree on this point. The chairman is appointed by the Secretary-General, having a casting vote, I think, when you put two and two. On the principle, I think, there is agreement on.

PRIME MINISTER:

But you will appreciate that we will have to be consulted about this individual. If it is the person in the office that you mentioned then there will be no trouble, but if you go outside of that then we will have to be consulted.

FOURIE:

I think, Mr. Prime Minister, last time it was suggested, it said here, that it was unthinkable that such an appointment would be made without consultation.

PRIME MINISTER:

Precisely.

VOICES:

Yes; Yes.

MURRAY:

No, we didn't put it in because we had not discussed it with the Secretary-General.

But certainly in this intervention, it wasn't our intention in any way to go back on the understanding we had given you. We were just trying to make it more precise. But clearly we shall want to look at this again.

PRIME MINISTER:

Just before we adjourn for coffee, gentlemen, you spoke, about numbers. Mr. MCHENRY, you can't throw any light on the numbers you have in the back of your mind?

MCHENRY:

No, we deliberately decided that it wasn't useful for us to get into that. The Secretary-General will have functions which we can agree on, and I think its going to be for him to decide what is necessary for him to perform his task. And that the numbers are to coincide with that, rather than our trying to pull any numbers from a guessing, from a hand.

PRIME MINISTER:

OK gentlemen, we'll adjourn for coffee.

(Adjournment)

PRIME MINISTER:

I think for the moment we have disposed of the United Nations role, if there is nothing further you wish to add. We have naturally reserved our position until such time as we could discuss it.

MCHENRY:

It will be useful, Mr. Prime Minister, if you take those notes from the last time; I assure you that there is no intention on our part to change the concept on the position of the Turnhalle.

BOTHA:

The next point. The question of the release of political prisoners.

PRIME MINISTER:

You have the floor, gentlemen.

MCHENRY:

Mr. Prime Minister, the last time we were here we did discuss this point and as I remember, it was the night on which we included it on to the list where we did not reach agreement. So it seemed to me that there was an element of agreement over those who were termed 'detainees'. But there was broad disagreement over the question of political prisoners, with some difference as to which persons were political prisoners and which others were criminals.

In the discussions at Vienna, and I think in our earlier discussions as well, we suggested that one possible solution to this difference might be to lean to the proposed International Commission of Jurists, the decision over who was not a political prisoner. And if I recall

correctly at Vienna you suggested that you would consider that suggestion and discuss it with your colleagues. At Vienna as well as here the last time, you raised the question of political prisoners held in other countries; Namibians held in other countries. And we took the position then of that we wanted all Namibians to be free to participate in the political process of the country, and I think this is accurate, but I'm not sure of the timing.

We have had discussions with other governments on this question. I don't know of the results of those at this stage. I might say, however, that while we do take the position that all Namibians should be released, we don't see any particular linkage between Namibians who may be held in South Africa and Namibians who may be held elsewhere. All of them should be released and if anyone wants to make it out that there's a linkage, that's their business. Our position is that one wants to return as much as possible to a situation of normality where this political process can go forward without the hashed disputes over the political activities of individuals casting any shadow over it.

I think what we would like to hear from you is the result of your own discussions and your own observations over the suggestion which we made the last time and which were again put forward in Vienna.

PRIME MINISTER:

Well, I think I can sum that up as saying that at the last meeting we made the clear distinction as between political detainees and criminals who were prosecuted before proper courts and found guilty of criminal acts.

I'm quite prepared to let the - not the Commission of International Jurists - but the jurists appointed by the Secretary-General, to let them have a look at the situation, provided and that is an absolute proviso, provided that detainees held in Zambia and Tanzania are also released. There can be no one-sided release of detainees or political prisoners for that matter. This is certainly not going to be a one-way street. You told us at Vienna that there were those people; you went further and you said that you knew they were held in camps in Zambia and Tanzania and therefore, we feel that if detainees are to be released then there must be an all round release. That, in a nutshell, is our position.

MCHENRY:

Then I think may we need another term other than the International Commission of Jurists because I don't mean the existing body which is stationed in Geneva. But I do mean the body appointed by the Secretary-General.

PRIME MINISTER:

No, I thought you referred the other body

MCHENRY:

I beg your pardon?

PRIME MINISTER:

I thought you were referring to the Geneva body.

MCHENRY:

No, no. I was talking about the body appointed by the Secretary-General which we were discussing a little earlier. You used the word, Mr. Prime Minister, 'detainees' again, and that you were prepared to have a commission look at those. Are you using 'detainees' in a narrow sense or are we talking about the same thing?

PRIME MINISTER:

No, I distinguish as between detainees and those actually at the time when this comes into operation, are convicted by a proper court. Because we've had it before that pure criminals were claimed to be political prisoners - murderers, rapists, robbers. I'm prepared to discuss this matter with the commission; both categories. I'm prepared to discuss both categories with you.

MCHENRY:

Both categories?

BOTHA:

Now, may I just, Mr. Prime Minister; I've got a complete list; that I'm prepared to assist the gentlemen. It's really a bad story; over a thousand South West Africans or Namibians in detention in Zambia and Tanzania have been beaten up and, cruelly treated. Some of them are being shot.

PRIME MINISTER:

Have they been shot?

BOTHA:

According to our documentation, some of them yes, Sir. I've got their names here. The biggest concentration camp apparently is Boroma Concentration Camp, Kapwe district of Zambia. So there is no question about its location, where over 1,000 South West Africans are being detained at the orders of SWAPO top leaders since July, 1976; virtually a year now, while 11 of their members had been transferred from Zambia to Todoma Prison in Tanzania. Prior to that there were 35 South West Africans in Keko Prison in Dar-es-Salaam and 9 others in Lusaka Central Prison since 1972. South West Africans in Boroma Concentration Camp and Todoma Prison are being held because they demanded some changes in SWAPO leadership through the Congress. The overwhelming majority of those who'd left the country in 1974 and their ages range mainly between 15 and 30 years. Those in Keko Prison and in Lusaka Central Prison are being detained because they had pointed out weaknesses in SWAPO leadership and demanded some modest readjustment. Dundo Katjipero is in Mongo Prison in Zambia since March, 1976, because he doesn't belong to SWAPO and would not like to be a member. And so it goes on.

I've got - not all the names but we have quite a number of names.

The following people were shot dead:

Upnon MANGOLO; Gerru NALA; Kadila KANHEMBA.

The following people were fatally wounded:

Anbody Tsjilango; Kavange Ambanda; Kalongdaga Tsjilongo; Kanajene Petrus SJILONGO; Phillipus NIOMA, and so it goes on. There is

great cruelty; they are starving; they're in a desperate situation.

Here I've got a list of the following people in Boroma Concentration Camp who are blacklisted because they had been members of one or other committees elected to collect information about corruption, incompetism and tribalism in the party leadership. Some of them are amongst those whose whereabouts are known. A long, quite a long list. And so it can go on. Our source here is not ourselves. These are people that escaped from those camps.

MCHENRY:

I've got the same list delivered to me and I think we've all got the same list delivered today. We looked at the materials which you have - and as I indicated earlier - I'm not sure of the timing of it, but I think we have already

PRIME MINISTER:

Sorry, I can't hear you.

MCHENRY:

I think we have already undertaken to address this question with other governments. But I can only reiterate, I understand your position, where you draw the linkage between the release of persons held in other countries and the release of those Namibians here.

Our's is that all Namibians should be released to participate in the political process and if we get that objective of all Namibians to be released, then they'll be released no matter where they are. If one

wants to draw the linkage they are perfectly free to do so. But I think we understand one another's position.

PRIME MINISTER:

I think, candidly, that it will be highly immoral to release one set and not do anything about the other set. I certainly won't be a party to that.

BOTHA:

Then the fate of those in those concentration camps will be sealed forever. You are losing your last leverage to get those people released on top of it.

MCHENRY:

I don't think we said anything about not supporting the release of all Namibians. Just as you don't want us to use the term supervision and control, I don't think we want to get to the position of a settlement trading in that what we look upon is one injustice deserves another.

FOURIE:

But if I understood you correctly, Mr. MCHENRY you said you understand the South African position.

MCHENRY:

We understand the South African position.

FOURIE:

..... as outlined by the Prime Minister.

PRIME MINISTER:

I don't want there to be any misunderstanding about South Africa's attitude. If those people that Mr. BOTHA referred to here are not released then nobody will be released from this side

MCHENRY:

The one point that I didn't understand, which I want to be very clear: your statement was that you are prepared to submit the question of both detainees and political prisoners.

FOURIE:

And to discuss it with the jurists.

PRIME MINISTER:

I'm prepared to release all detainees if such there are and at the others I'm prepared to put their cases to the jurists.

MURRAY:

Mr. Prime Minister, there is only one point I would make clearly for the improvement of the political atmosphere, it would be important to have an early release of the political prisoners in both categories. Those held up here and those held in other countries, and I must say personally, I'm a little disappointed that the whole question should be left until the International Commission of Jurists is set up, which is already seems to me to be pushing it forward. You do not think that there are any political prisoners you could review on your own behalf?

PRIME MINISTER:

At the moment I don't know of any.

FOURIE:

But the point the Prime Minister made was that you distinguish between the detainees and the other. As far as the detainees are concerned, he doesn't want to wait for the group of jurists, he makes their release dependant only upon the release of similar people on the other side. It's only the case of those convicted who have to wait till the Group of Jurists have been appointed.

PRIME MINISTER:

I want to go so far as to say that if you tell me that these people are available at Lusaka tomorrow or any other day, then I'm prepared to send a plane up there to collect them and bring them back to South West Africa.

MCHENRY:

I think, for our part, we may have gone as far on this particular subject as we need go.

BOTHA:

It is either now the question of the phases of withdrawal from South West Africa or the repeal of discriminatory law. I think this morning there was a suggestion that we change them around.

MCHENRY:

No, we have already made the change. It was the nature of United Nations involvement this morning first. So if we can take the repeal of discriminatory laws now.

PRIME MINISTER:

The Turnhalle people are committed to repeal such laws and according to this State President's Proclamation, they will have the power to do so. And I have no objection to it.

MCHENRY:

Does that include laws such as - let me ask this: What will be the application of a law such as the Terrorism Act?

PRIME MINISTER:

I don't know that there is anything discriminatory in passing an act against terrorism. If the Dutch were to pass an act against terrorism in view of what's happened in Holland at the moment, will you call that discriminatory ?

MCHENRY:

Well, this is one of the reasons that I'm sort of concerned about the language which we've slipped into using - I think our earlier language was broader. There are some laws which it can't be said will affect the political climate there. For example, I think we've already discussed freedom of movement. That kind of law easily would be inconsistent with the holding of the kinds of elections which we've discussed.

PRIME MINISTER:

The Turnhalle has decided that. All persons are equal before the law. No person may be favoured or prejudiced by reason of his origin, sex, language, race, colour, creed or political convictions. Freedom of faith is guaranteed, freedom of movement is guaranteed; if these

are the things you have in mind, then the answer is in the affirmative.

FOURIE:

I think some of these things that Ambassador MCHENRY refers to, under paragraph 7 of that former paper, the non-paper, we suggested that South Africa waives the application of all legislation and regulations which might impede the full participation of all South West African political prisoners. The South Africans suggested that if any such existed, this would be taken care of by the regulations for the political process. This means that if anything is left after that legislation had been changed or repealed.

UNITED KINGDOM REPRESENTATIVE:

Mr. Fourie, sorry Sir, our paper says, our non-paper says: some of this will be taken care of

FOURIE:

Well, I think it was some of them that was bracketed. I was under the impression that some of it came out. I mean is

PRIME MINISTER:

But the whole aim and object of Turnhalle was to get rid of this so-called discrimination and that is exactly what they intend to do.

MCHENRY:

I think, Mr. Prime Minister, what I want to address and what we want to address, are some of the other laws which apply to Namibia, to which, as you know, there is substantial objection to and which may

be said to affect the climate in such a way that some of these basic freedoms such as we were speaking of, will be very difficult to operate under. I'm not a lawyer and therefore I don't want to speak a view with any expertise, but I'm told that things like the Unlawful Organizations Act or the Rioters' Assemblies Act - legislation of that kind, more even the application of the Official Secrets Act and the

PRIME MINISTER:

Good heavens, every country under the sun has an Official Secrets Act.

MCHENRY:

That I understand, but they are not all written in the same terms and languages that you have here.

PRIME MINISTER:

Our Official Secrets Act was taken over from the British (laughter) and I don't think we have any clause in that act which doesn't correspond with that of the British.

SCOTT:

I think it might be sufficient for us to accept that the relevant Acts will be repealed.

PRIME MINISTER :

It stands in here; yes.

MCHENRY:

He has the authority to act on all laws extending to this, without exception?

PRIME MINISTER:

That is what the act says that I've read to you.

SCOTT:

And the question, presumably, perhaps if you don't mind me just raising this. The question of identifying the laws will be one of the tasks, as I understand it during the electoral process of the United Nations presence. I mean if they discover there is a law which nobody thought of which infringes somewhere on the electoral process or the political process, then they are identified.

PRIME MINISTER:

If there is any dispute about it, the jurists are there to decide upon the dispute.

MCHENRY:

Mr. Prime Minister, I'd like to discuss this with my colleagues that may have to come back to this at a later stage. I think in view of the final authority which the government maintains, it is not simply the commitment of the Transitional Authority, and which is important, it is also the attitude of the government towards some of these laws as well, in other words, it would be no good if the Transitional Authority, decided it was going to dispense or wish to dispense with a certain category of laws and the State President had previously decided that on that category there will be no action on.

PRIME MINISTER:

Then it can be taken up with us and it is inconceivable that the State President won't accept what the Interim Authority advises him to do.

SCOTT:

There is a point, Prime Minister, a number of these laws operate in the field of security, and security, as I understand, is to be a matter reserved for the South African Government. So it remains a matter reserved for South Africa.

PRIME MINISTER:

Yes, that's in view of the terrorist incursions over the border. And if there is a dispute, then it can be referred to the jurists.

SCOTT:

Even in relation to reserved matters?

PRIME MINISTER :

Even in relation to reserved matters, yes. Because your, but you must just remember that you hold us responsible for the territory and then we must obviously be responsible for law and order, especially during election times. You can't have people running around the country committing acts of violence and intimidating people without taking action against them.

BOTHA:

As I understood it, their main concern was to ensure there will be fair, open elections. If there are laws or circumstances that impede that, then it is one of those kind of disputes falling within that description of disputes which can be investigated.

FRENCH REPRESENTATIVE

That means that the Central Authority will have the power to make a decision on reserved matters?

FOURIE:

The question put, was 'anything falling outside the scope of the Central Authority', if it is argued that the legislation in that category, impeded this kind of thing, then the Prime Minister said yes, they are free to refer that to the jurists.

PRIME MINISTER:

If we've disposed of that, we may continue, gentlemen.

BOTHA:

The next matter is South Africa's withdrawal.

PRIME MINISTER:

Can you tell us, Mr. MCHENRY, why the deviation between the non-paper and this paper?

MCHENRY:

I think, Mr. Prime Minister, you remember at Vienna, we had a misunderstanding on the interpretation on this non-paper. As I understand

your interpretation of that, it was that the withdrawal was to start, or not to start till the political process was over. Our understanding of that is that the withdrawal process is to be completed at the end of the political process. And I think it was in order to focus that issue so that we didn't have a misunderstanding and make sure we are talking about the same thing.

FOURIE:

But the wording here was that a consultation is going to involve the South African Government to develop a plan for each withdrawal in stages from South West Africa, to prepare a smooth transfer of power at the end of the political process. It will develop a plan to prepare the withdrawal at the conclusion of the political process.

MCHENRY:

You see that's the difference in the interpretation.

PRIME MINISTER:

It is not a question of interpretation, gentlemen, the words are perfectly plain in the previous paper. You have it in front of you; you can all consult it. This is a radical departure from the

MCHENRY:

No, I don't think so, Mr. Prime Minister in that we've been saying, we stand by the status of, I think it is a question of when the status starts. I think your interpretation is that the status starts on December 31, 1978. It gives that impression.

FOURIE:

Because that is linked to the other assertion on your part that South Africa remains responsible.

BOTHA:

We retain the ultimate responsibility throughout the interim period.

PRIME MINISTER:

Now how can we be responsible if we are not there? And let us just, whilst on that point,

MCHENRY:

I think this is why the "in stages", the process is as one is going along, you are developing a government in the territory to take over some responsibilities. Now allowing the staged withdrawal, it still leaves you with the sufficient authority there to carry out your ultimate responsibility.

PRIME MINISTER:

To which government are you referring now? The Interim Government or the Final Government?

MCHENRY:

It is only being turned over to an interim government in the hope it will lead to a final government.

FOURIE:

But the final government would not be in power till the end of the process because you've got to have a constitution, then a final election, then

comes into power. At that time it is the end of the political process.
So that you've got to turn anything over to a final government; it is the end of the political process.

MCHENRY:

It will be very difficult for us to even discuss phased withdrawal for an independant government. It can implement an independant government that there is going to be a phasing all from.....

BOTHA:

If that government, for argument's sake doesn't want us to withdraw; if that government doesn't want us to withdraw our railways for instance ?

MCHENRY:

I don't think we are talking about that.

INTERJECTION: But the Railways are ours.

MCHENRY:

I think we are talking about the instruments of authority.

BOTHA:

So we must withdraw certain things but other things must remain?

MCHENRY:

It is then for you and that government to decide what remains.

PRIME MINISTER:

Precisely, that is our point of view.

MCHENRY:

We are talking about instruments of authority.

PRIME MINISTER:

Such as? Let's name them.

MCHENRY:

Well, such as what?

SCOTT:

The Administrator and Civil Service and central services that you are handing over in phases, in stages to the Interim Authority.

PRIME MINISTER:

But don't you appreciate that if we take the civil servants away the whole administration will collapse?

SCOTT:

But, Mr. Prime Minister, I think we are not talking of something how to find realistic ways; we can't expect that you would withdraw the Police in stage one. In the state mechanism they can accept that at some point some of your commanding officers to withdraw. Somebody else might take over responsibility in phases, in realistic phases and on day one, you might not withdraw anyone. Three months later you might still not be in a position to withdraw it. That is why we are talking of this plan, a reasonable plan in the light of this situation that will prevail.

If there is an acceptable administration and you can recommend that you hand back to them certain powers as you hand these powers over, it should be possible to withdraw not necessarily legitimately, you certainly withdraw your authority, your direct authority to the secto

PRIME MINISTER:

But you must appreciate that for time to come certain civil servants will have to remain there.

SCOTT:

We do, Sir.

VOICE:

What will be their status?

PRIME MINISTER:

And at the moment we are bringing them back as fast as we can. Even now we are bringing them back as South West Africans become available, we bring our people back.

SCOTT:

But, as you bring them out, this is the big problem; this is what we are talking about, in phases.

Yes and as the Namibian administration is being put into place, the South Africans withdraw.

MCHENRY:

Mr. Prime Minister, I suggest that we defer this discussion until tomorrow.

PRIME MINISTER:

As you wish.

MCHENRY:

And I think it might also be good if we adjourn at this stage.

We still have to come back to the question of United Nations involvement. We still have to come back to the Central Administrative Authority. This will leave us with the question of withdrawal and the question of venue and time for the talks.

PRIME MINISTER:

Let us just wait a second for Mr. Botha; he has been called away. I would just like to find out whether he has any further matters to discuss.

FOURIE:

You know I am beginning to wonder, if one shouldn't talk of a transfer of power rather than withdrawal because from what emerged from the discussion. Perhaps one could leave this till tomorrow.

GERMAN REPRESENTATIVE:

The trouble is, that this is one of those established languages; in other places.

FOURIE:

You know, our trouble in life is, we have learned too much from the British!

BOTHA:

Gentlemen, there is a new development. It does not seem to us that it would be possible, at this stage, it doesn't seem possible that we would be able to accept a Central Administrative Authority going beyond the 17 sort of thing. But there is a new development. And this development points in the direction of not instituting anything at all. Nothing, and to return them to a governmental representative or call him the Administrator General who would then under directions of the State President form the central authority. Now I don't say to you that this is achieved. I must please urge you that under no circumstances must this be released outside this room.

FOURIE:

Of course you know the position is, previously the Prime Minister pointed out his own commitment, and if he is held to that he's got to withdraw the authority, if he is not held to it

BOTHA:

If he is not held to his commitment, then he can say he is still prepared to fulfill his commitment, but he's got to be divested of that commitment not by himself. Now it seems to me there might just be a possibility of divesting him of that commitment which is a totally new development which has now occurred the last few moments, when it was conveyed to him. If that can be achieved then frankly, then really you mustn't ask any more, but we haven't achieved it yet, but it is a new development. I'd like to urge you, please do not

disclose this at this stage to no one, or to discuss it where press people can pick it up or the Turnhalle people. There are also associates of the Turnhalle people around and if we want to kill this, then it must be leaked at this stage. I know you will have appreciation for the confidentiality of this matter. I am personally involved in this and I make an appeal to you. Any comments?

BOUWDLER:

I don't suppose you can elaborate on this point. Is the Administrator General, would he be a South African in particular?

BOTHA:

Yes. I can't answer that question, but personally I do not foresee much difficulty in that respect as far as that person is concerned.

But certainly, if the position can be achieved where the Prime Minister can be relieved of his commitment, then as far as I am concerned.....

that is if and, and the point is that Turnhalle would not apparently accept a central administrative authority the way you suggested. They just can't do it, they wouldn't do it, and this is a last alternative.

It's a last alternative that might be achieved.

MCHENRY:

Mr. Foreign Minister, as we had suggested just before you came back. that we might adjourn the discussions at this stage and resume tomorrow. You would then have time with them to come back to this question of a central administrative authority. I guess we will still have to come back to it because you will obviously perhaps have more information

which you can convey to us. We then might come back and discuss the question of United Nations involvement and your own reactions to our representations. And we might by that time have all together on what I think is an excellent suggestion by Mr. Fourie - have our views on transfer of power.

FOURIE:

That was not really a suggestion. I just asked whether this was the point we were really talking about.

MCHENRY:

It may be a better term, I am not sure and then we might also address.

.....

BOTHA:

Just before we adjourn may I just say that, if this is accepted by the Turnhalle in the sense that they say to the Prime Minister: Prime Minister you need not continue with your commitment. If, I say. Then you will understand that eventually it will have to be stated in public that it was you. It would have to be stated then that it was the five countries who've brought this about, I mean who have insisted on not having the Turnhalle as an authority. I mean it is not us, it is you. I hope we understand each other on that point very clearly.

MCHENRY:

If we could have a nicer form of word that would be acceptable.

PRIME MINISTER

In that case then gentlemen, we will proceed. Mr Botha, is there anything that you want to start with?

BOTHA

Prime Minister, yes, I may perhaps just resume where we left off yesterday. Shortly, before we adjourned I got news from the Turnhalle that it might now be a possibility to drop the idea of instituting an interim government envisaged by us altogether and in that case the only point was that we then go ahead with the suggestion of the five of appointing there an Administrator-General or somebody in charge there and he governs the territory until independence.

PRIME MINISTER

Any observations, gentlemen?

SCOTT

Mr Prime Minister, we've listened to this proposal with very great interest, yesterday, which the Foreign Minister outlined very briefly, about the possibility of establishing a single administrator general as the central transition administrative authority and I don't know whether there is any amplification of that that the Foreign Minister would like to make now, otherwise I would go on and make one or two points on this issue.

PRIME MINISTER

Please carry on.

SCOTT

Well, we concede how a proposal of this kind could remove some of the political considerations which were earlier giving us difficulties. However, there are one or two points we would like to pursue and in particular we would

welcome an assurance that we didn't find ourselves back in the position which we were in earlier, i.e. that the administrator-general would not employ any political group here, such as, for example, the Turnhalle or, indeed, SWAPO, in an institutional fashion, whether advisory or otherwise.

And I think there is perhaps one specific consideration which we would like taken into account at this stage, because naturally we have seen the central administrative authority as being one part of a package which we are hoping would receive, in fact this is the whole object of the exercise, would receive international approval. We would hope, therefore, that the administrator-general would from the start bear in mind that in certain of his functions, in particular in relation to the electoral process, that he will be operating, as we see it, in consultation with the United Nations special representative and that any decisions he takes in relation to the electoral process will need to take account of that factor.

BOTHA

Mr Prime Minister, I must say that I understand why Sir David mentioned these points but I am a little bit disappointed, if I may put it bluntly, I thought there would have been a little clearer indication of credit here; I would have thought this is a considerable step forward achieved after arduous, difficult, and what have you, negotiations and pointing out alternatives to the Turnhalle I must say I just want to air my disappointment, we are here together to be frank with one another - I would have thought this would immediately have been welcomed by you; because you didn't want the Turnhalle and the Prime Minister had a commitment. I don't think you can imagine what went into this, quite

frankly, to put it bluntly. The other matters is for the Prime Minister to answer. I thought I would just like to air these views of mine right at this stage, Prime Minister.

SCOTT

Well, perhaps, I could just comment on that, Minister. We do, of course, fully realise this is a very great step forward if it is filled out a little. The fact is, that you have so far really only given it to us, if I may put it that way, in two sentences which is fine, but we would find it necessary to probe a little bit as to what lay behind this, this really remarkable note.

BOTHA

Sir David, well, as I understand it Prime Minister, we haven't discussed this in full with the Turnhalle because it came to us also, as you know, as a bit of a surprise at least, a major one. The point is the idea as I understood it, was that you wanted a man there, yesterday. What would have been his functions? You wanted somebody in control then of the Turnhalle or the Turnhalle cum, whatever is added to it. You wanted us to retain ultimate responsibility and I think the basic idea is that this man would be neutral, impartial and that his staff would be neutral and impartial as far as we can get it to be; that is basically the idea.

I had no problem with that. We were just thinking of the whole concept; from the word go you didn't want Turnhalle, you know how long we fought about this. Suddenly it so happened, almost unexpectedly, that this was obtained - how it was obtained is a different matter - but we would have asked you for a little bit of credit here, quite frankly, if I made an understatement.

SCOTT

You have already given us by saying "and his staff would be neutral", I think, exactly the sort of point that we were wanting to make. It isn't that we don't want to give you credit because I think that this is a very remarkable step forward, provided we can have the assurances that it doesn't conceal some hidden mine -

BOTHA

No. You know, Sir David, I sometimes get the impression that you think we are very sinister people. (Laughter).

PRIME MINISTER

Gentlemen, as I see the position now, in a nutshell, what will happen is as follows: I will pass a law next week - I will give you a copy of it - I have even shortened it from yesterday, I talked to the chief law adviser this morning and I will have it in a minute - we will pass a law empowering the State President to make laws and repeal all laws for the territory as we talked about yesterday.

We will appoint an administrator-general and he will start immediately to set things in motion for the elections. In the meantime, as I see it, a representative of the Secretary-General will be appointed; the jurists will be appointed and as I under these circumstances, see the function of the appointee of the Secretary-General his function will be to see that the regulations, etc., etc. and the conduct of the elections are free and fair and that is the end of it.

SCOTT

That is the beginning of it, anyway, Prime Minister. I am sorry, that was perhaps a frivolous remark. I think there is only just one slight worry which relates to what I was saying in the second half of what I said, and that is that of course, from your point of view the

steps - although very far-reaching - are relatively straight-forward. They are under your own control and they can be done quite quickly. I think we have, we collectively have a rather more complicated problem in a sense that we are talking - you remember that Mr McHenry started yesterday by saying that we will not empowered to reach any agreement with you, we, this party, because we don't represent any negotiating parties you might say.

Therefore we will have to do a great deal of clearing of lines with, for example, with the United Nations Secretary-General, before the next stage in the proceedings, which is the United Nations involvement, can be both worked out and then put into position. So that, although the last thing we would want you to do, is to get the impression from us that we wanted any delay; in fact, there is built into our position, I am afraid, an element of consultation which will take a little bit of time even with all speed attached to the process. I think this is a point which I must raise.

PRIME MINISTER

Frankly, gentlemen, I appreciate your position but you must now kindly appreciate my position. I have reached the stage now where I want South West Africa off my back as soon as possible and therefore regardless of - I am not looking for a fight with you now, I am just telling you the facts - regardless of what maybe decided or what might not be decided, we will go forward with our law; we will appoint the administrator-general and we will instruct him to prepare for the elections and we will issue an invitation to the Secretary-General to appoint a representative to see that everything is fair and then we are just going on.

BOTHA

There was no way to get yesterday's decision, there was no way, because the Turnhalle-people, can you imagine, must return to South West Africa, let us be blunt, what must they tell their supporters? That you have knocked them out? That is a fact, that is a reality. There is a give-and-take in this. What are they going to tell their people? No constitution, no Turnhalle?

I think you must not underestimate the reality of the situation.

SCOTT

No, I think we don't underestimate that at all.

UNITED STATES OF AMERICA REPR.

Mr Foreign Minister, I think you have told us yesterday that it was the Turnhalle who had turned down any form of interim -

BOTHA

No, wait a bit, the Turnhalle wanted their constitution, their people to be duly constituted in a Law of Parliament. That was the reality but because of your views which were conveyed to them and which put us in a very, very difficult and painful position all along. And that is why I wanted you people to talk directly to them; to get us off the hook, because we have been on the hook all the time, gentlemen. Let us now be open up here tomorrow, this morning; this was not easy. I have got to convey your views to them all the time and on top of it point out alternatives to them, which are painful to me to do; painful. It can affect my political career. Now all this has been banned.

UNITED STATES OF AMERICA REPR.

You think we should go to Windhoek and brief them again as we did last time?

BOTHA

Well, that is up to you now. But the fact is this is a decision reached by them - there you are right - but it is a decision reached by them on the basis of your views expressed to us and which we had to convey to them with advice on an alternatives. So you have done it, not us, as far as I am concerned and they have reacted to your proposals.

My Prime Minister was committed and he was prepared to stick by it but you intervened and you interfered and you have now convinced them not to do it, not us, as far as I am concerned.

PRIME MINISTER

May I just say that it is not necessary to go to Windhoek to consult with them, they are here in case you want to consult with them.

May I just refer, you have a copy of the Bill, gentlemen? May I just point out, in

(a) it reads "by the substitution for Sub-section 1 of the following sub-section;

(1) The State President may by proclamation in the Gazette make laws for the territory in relation to any matter".

Then you find in brackets (in regard to which the Assembly may not in terms of section 22 make ordinances). That is our way of drafting a Bill; this is to delete those words from the sub-section, it is not adding words. You appreciate that?

BOTHA

The words in brackets to be deleted. And the Assembly there was the

PRIME MINISTER

So it must read "as passed the territory in relation to any matter and may in such law?"

SCOTT

Oh, yes, I see.

PRIME MINISTER

Then (a) and (b) are new and that is our way; we have the black line there to show that this is a new sub-section and not a deletion.

So to facilitate matters, if there are any questions you want to put to me or views that you want to express in regard to the Bill, you have the opportunity now.

McHENRY

Mr Prime Minister, with your permission I should like to express also on our behalf our delegation, our appreciation of that effort to meet our problems and reconcile our mutual problems. Just one addition maybe, that as Sir David has said, and as, you mentioned that in your view the administrator-general should go ahead as quickly as possible with the preparation of free and fair elections; that, surely we don't want you to delay any of these actions, but that we consider it very important that all measures he would take are taken in consultation with the United Nations representative.

PRIME MINISTER

But taken in consultation with him it will be put before him and he must satisfy him according to the agreement, as we agreed, that this will make for free and proper elections.

VOICE

The point I would like to make, is that nothing would be prejudiced before the United Nations representative has a chance

BOTHA

But you will understand that the moment the man starts acting on the day-to-day administration, I mean, gosh, governments must be voted for, I mean, the territory must still be run.

VOICE

I mean the electoral process, not the day-to-day administration.

BOTHA

It depends how long this is, Mr Ambassador; we can't forever postpone this. The Turnhalle has got a bad knock now - there is no question about it.

PRIME MINISTER

And as I have said gentlemen, whatever may be decided, I want to get this off my back as soon as possible and I want elections as soon as possible.

McHENRY

Mr Prime Minister, Mr Fourie reminded me last night that this question has been around for more than 30 years and he expressed last night the same thing which you have expressed today, i.e. a desire to get this thing out of the way. I think that is our desire as well. I wonder, in view of what I think has been remarkable progress, whether we should not with all - if I may borrow a phrase from American law - with all deliberate speed proceed to try and put together the rest of this package. I am very much afraid that, I don't want to give anyone a reason for trying to

shoot down and have some justification for not cooperating in what looks to me, at this stage, to be a process which can receive very broad support.

And I think what we have here is another reality. You have yours, a desire to get it done; you have the desire on the part of the people of Namibia to move on with governing and to get this question resolved. We do have a whole large set of other factors which, including working out with the Secretary-General, that which is necessary in order to give this thing the kind of credibility which I think we all want. And I'm not urging delay here.

We certainly, in the appointment or actions of the Administrator, I am urging, I think, that his role and his part of a large package, be kept in mind. I would hate, in trying to make haste now, to jeopardise what I think would be a widely accepted settlement of the question which has been with us for a long time. There is something about the way you expressed your views on the actions which you propose to take of which, in a sense, gives me the impression that we are not going to have that time to fill out this package. And I think we need it. I think we all need it.

PRIME MINISTER

Need what?

UNITED STATES REPR.

The time to ensure that we get the Secretary-General and the United Nations involvement, portions of it done, the time to satisfy all parties, that on all of these elements that we have spent so much time discussing, that there is a broad basis of agreement.

PRIME MINISTER

I can only come back and repeat, gentlemen, what do you want? You want free elections as soon as possible. And I now say to you that I'm prepared to give you free elections as soon as possible. You want to see that these elections are conducted in a free and proper way. I say yes, not only will the regulations that will be drawn up make for free elections, but we are inviting a representative of the Secretary-General to assure himself that that is the situation. And then the sooner we get the elections off the ground, the better and we will start - I'm not going to work in July, not for anybody.

In the meantime we will get the officials to do the necessary ground work and we will be ready with the appointment of the Administrator-General, say, in August and from then on the matters will start developing.

VOICE

We thought you are talking about tomorrow, the 14th.

PRIME MINISTER

No, Sir, we are not as fast as all that!

GERMAN REPR.

Mr Prime Minister, I think the main point is that this achievement, in that situation should be presented to the outside world as the alternative to war and escalation; it is the way to a peaceful solution and it is what we need in our South African and Western common interest, that the full credibility of what has been achieved here, is there for the rest of the world and there is no doubt about anything. So I think there is no dissent at all; it is we want to make the best of it and a lasting effect in order to avoid a

repetition of what happened in the Security Council in March and April; that we go on a new way, that we can help you and you help us that in Southern Africa, on the example of South West Africa, a new era of peaceful solution is possible and for this we have to convince the others for once and, as we hope, forever. That is the point and I think there is no dissent at all.

BOTHA

I thank you for those words but may I just, Mr Prime Minister, go through this problem with Mr Fourie and yourself, the past 10 years, of your Premier tenure-ship, say for the record this and for the sake of perspective, just recapitulate a few words, the main issues. It was that we would have preferred the territory to become independent on the basis of separate units, it is becoming independent as a unit. It was never foreseen in the Mandate that the mandates of which South West Africa was one, would ever get independence; it was never foreseen. That point has been seen. You take the question, Prime Minister, of oppression and so-called apartheid, as construed by the United Nations. This formed the heart of that long drawn-out battle in the World Court instituted by Ethiopia and Liberia against us. For years we battled there. In a way we won that case, there is no legal determination, Prime Minister, binding on the United Nations or on individual countries giving the United Nations these rights. There is none on which you can rely.

You can talk about political realities; you can talk about moral realities but there is not a single, binding, legal determination on which you can rely and look at it! The United Nations can now be involved. Measures based on discrimination can be repealed; the territory can become independent as a whole; there can be free and

open elections and the United Nations Secretary-General can assure him as to the fairness and the openness of those elections. If, on top of it, the Turnhalle had worked for 3 years, yesterday afternoon withdrew, they requested the Prime Minister, then, Prime Minister, all I want to say is having lived with this for so many years, if we are pushed beyond this point the only other point we can now be pushed, is to hand it over to SWAPO. There is nothing we can do more by way of being reasonable, nothing at all. And this is what I want to get off my chest.

PRIME MINISTER

I would suggest, gentlemen, that we won't get anywhere if we go on discussing and raising issues; let us come to the practicalities of the situation. Gentlemen, let me just put it to you; are there any objections that you want to raise to the Bill of which I must give notice tomorrow, if possible?

BOTHA

May I just say, Prime Minister, the Caprivi Zipfel, there is a spelling error there - as our German friends would know, a zipfel is spelled zipfel.

PRIME MINISTER

What is an f between friends?

BOTHA

For those who don't know that Caprivi was called after the Count von Caprivi, German chancellor of the previous century and the reason why, he wanted access to German's colonies in the eastern part of Africa.

PRIME MINISTER

Is it zipfel?

PRIME MINISTER

Any comments, gentlemen?

VOICE

Historically, the Caprivi Zipfel was not originally part of South West Africa?

BOTHA

No, it was always part of it, but for administrative reasons in the earlier days we used to govern it directly from Pretoria and still to a large extent today because of access. You fly around the territory and try to get there, I think it is a distance of 2000 miles. If you fly over Botswana, its a distance of 400 miles, so an administrative arrangement was made and laws then were not applicable to the Caprivi Zipfel unless they were explicitly made applicable. It is merely an administrative historical arrangement, so unless it is stated here, and one of our courts once upon a time found that it ought to be like that, then it is not applicable to the Caprivi Zipfel, but it is part and parcel of the German Protectorate of South West Africa which became the mandated territory.

PRIME MINISTER

It should never have been; in actual fact, it should have been a part of Zambia.

BOTHA

In effect, yes. It was one of the most ugly deeds of colonialism in my opinion.

PRIME MINISTER

And I think we are all here not in condemning colonialism. (Laughter).

PRIME MINISTER

Any comments, gentlemen?

MURRAY

I wonder if, Prime Minister, at some stage I could say just a little bit more about this question of United Nations involvement?

PRIME MINISTER

No, but I just want to dispose of this first, if you don't mind.

Do I accept that you are in agreement, gentlemen? You will appreciate that I have got to step very warily when I introduce this Bill; I have got to say something; I can't just read the Bill and I don't want to say something that might embarrass you in any way. So, I will think aloud and you must tell me where you have objections, you must please tell me. Am I entitled to say that we have agreed upon the passing of this Bill, or will it embarrass you?

UNITED STATES REPR.

Mr Prime Minister, there is one, not necessarily embarrassment but we obviously have not had time to consult governments, nor will we have time, nor probably, Sir, need we, but I don't think you can say the five governments, if you don't mind?

PRIME MINISTER

Okay, so I don't mention you at all?

FRENCH REPR.

Yes, I think it is better.

PRIME MINISTER

And I will have to say I have taken it out because

I don't want to prolong discussions in the House; I am committed still as far as the local governments are concerned, for the Damara's, etc. I take it. I cannot say that you are committed as far as that goes either?

SCOTT

I think it is very difficult for us to commit our governments specifically on anything, Prime Minister, but I think at the same time we very much appreciate, we can say we appreciate what you have done. I think it goes back to our difficulty right from the beginning that we are not really a negotiating body. But we seem, nevertheless, to have achieved something.

BOTHA

I understand your position but may I just explain also our political difficulties? And that is that what the public expected originally would have been a rather long, lengthy Law based on the Turnhalle constitution and now there will be politicians in Parliament who probably are against the Prime Minister, saying now you are getting the worst of two worlds. Apparently you have dropped the constitution and now are coming with wide powers for the State President; what is this business? We want to know what he is going to do? Is he going to rule against the Turnhalle; what is he going to do? I am just mentioning it to you.

SCOTT

I know.

PRIME MINISTER

I will take second reading of this Bill on Tuesday. Will it be possible for you to let me know before Tuesday what the situation is as far as your Governments are concerned?

BOWDLER

Well Mr Prime Minister, I think that what you could possibly say, is that you are now moving in a certain way in order to ensure that there will be an internationally acceptable solution. It is not for our Governments to approve South Africa's legislation. I don't think that my Government would ever dare.

PRIME MINISTER

No, but I don't want to be shot down next week by your governments.

BOTHA

Then we are in one hell of a spot.

BOWDLER

But you can certainly say that it is your understanding after discussions with us that this is the first step in a full process of development. That is likely to be acceptable, that is, likely to be acceptable to the international community. There is not much else that we can say.

BOTHA

No, but the Prime Minister said he doesn't want - look at our reality; if the opposition and even some of our own supporters say the Turnhalle is dissatisfied, the five are dissatisfied, the whole world is dissatisfied; what are you doing? Why do you do this?

BOWDLER

Well, I think you can certainly show it as a reflection of our discussions, but it is not for us to approve -

PRIME MINISTER

No, I appreciate it, but will you just formulate your

idea for me because I don't want to say anything that might cause either embarrassment or reaction from your part and I think that is fair enough.

BOWDLER

Of course, one of our problems is that we do not represent, first of all, anybody but ourselves right now. As Mr McHenry said before, we now have a lot of work to do to ensure that the whole package will be acceptable for the international community as a whole; from the Secretary-General down to everybody.

So it would be a bit, shall I say, a lot for us to say, at this stage, that we give you a guarantee that this is it.

PRIME MINISTER

No, no, I am not asking for a guarantee. I was perfectly happy with what you said about understanding, if you don't mind, you will just think aloud again, so that I can get it down.

BOWDLER

I don't know about the words exactly.

PRIME MINISTER

Will you just take it down for me, Mr Fourie, I am a slow writer.

FOURIE

"Discussions with the group".

FRENCH REPR.

So that we could reach an internationally accepted solution.

VOICE

With a view to reach.

PRIME MINISTER

That is fair enough for me. Well, that disposes then of the legislation.

BOWDLER

To me it is evident that this is one result of our negotiations.

PRIME MINISTER

And do the same sentiments apply, gentlemen, to the question of the local government for the Damara's, etc.?

VOICE

Sir, I think this is a matter of internal administration.

PRIME MINISTER

Okay, fine. Okay, that is our internal affairs in which you don't want to meddle and I thank you for doing it for once! (Laughter).

SCOTT

Mr Prime Minister, I wonder if I could comment with satisfaction and gratitude on the fact that it appears that the reference Walvis Bay is out, I am not asking -

PRIME MINISTER

Which does not mean that I am going to do it now. Again it is my internal affairs and I am going to say outright to Parliament that whether you agree or not I am going on with that.

SCOTT

And this will be something which the State President does.

PRIME MINISTER

This is something which the State President will very definitely do.

BOTHA

But we don't want to flag it.

McHENRY

I think that we truly appreciate that.

PRIME MINISTER

Okay, gentlemen, anything else on that point? Thank you.

Then, and I am trying to expedite matters now, are we agreed that an Administrator-General will be appointed?

McHENRY

Mr Prime Minister, again, I think that the thing that we can do here, is to express some sentiments of ours. For us to say that we agree that, I am concerned about the way that you put it, because -

PRIME MINISTER

I am talking for internal consumption and internal consumption only now for us round this table.

SCOTT

But I think, Mr Prime Minister, that we are not in a position to agree formally to anything; we are hopeful to get out of here with the elements of a package that we can then sell to the rest of the world, which we first have to sell to our governments.

PRIME MINISTER

All I want from you, gentlemen, is a non-acceptance of it.

SCOTT

No. (Laughter).

Prime Minister we have said before that we welcome this development.

BOTHA

The appointment of the non-Administrator-General?

MURRAY

And we would regard this as consistent with our discussions.

PRIME MINISTER

Regard it as consistent with your discussions.

BOTHA

Because the Turnhalle was inconsistent.

MURRAY

It was. The Turnhalle was inconsistent with our view of the problem.

McHENRY

I think in the final analysis we will want to do another non-paper because I think it is for all of our good that we know precisely what we were discussing; what was said here. So I don't want a duly worked out language in this session I just think there ought to be if we have enough paper.

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BOTHA

But wouldn't it then be better, Prime Minister, from a time factor point, that we follow the same procedure as last time; adjourn as soon as possible; give the gentlemen here a chance to produce their non-paper and continue on the basis of that?

PRIME MINISTER

Yes, but we must first get agreement on the non-points. (Laughter). Secondly, gentlemen, being our internal affairs and you, gentlemen, being loath to meddle in our internal affairs, we suggest inviting a representative of the Secretary-General and, broadly speaking, his function will be to ensure that free and proper elections are held.

FRENCH REPR.

Have you a timing for this invitation or what is your purpose?

PRIME MINISTER

As soon as possible.

FRENCH REPR.

As soon as possible. But you said you are going to appoint an Administrator-General in August; so you intend to appoint -

PRIME MINISTER

Yes, because I will have to draft the regulations first, etc., etc., and I am not going to work in July, I am telling you that now.

FRENCH REPR.

So will appoint him, Mr Prime Minister in August, and then you intend to -

PRIME MINISTER

Yes, I don't foresee that he will take up office before the 1st of August. That is the earliest that he can take up office!

BOWDLER

Mr Prime Minister as to the appointment of the United Nations Special Representative. It was said before, this may take a little time and I'm seeing it from New York; it may be an involved process to some extent. You realise that the Secretary-General cannot now, and if he was quite prepared and ready cannot do this quickly, that quickly. So we will need a little time. First of all, we have got to bring him to talk with him in very realistic terms; we have need for him since the support from the African group, at least those who are on the Security Council. We will probably need a Security Council resolution, without the Africans there is no way we can get the Security Council resolution enabling the Secretary-General to go ahead with the job. I am not saying it will necessarily have to go this way or that way because we don't know yet, but it is an involved process and we will require a little time.

PRIME MINISTER

If you go according to African time gentlemen, you won't have it this year, but I would suggest that you go according to Western times - and I cannot frankly see why you cannot get him there by the end of August, beginning of September.

BOWDLER

Well, we can be hopeful, Sir; I don't think we are in any position to say for sure. When given all these factors, all the other parties involved. In fact, I think we can give you an assurance that we will just do our best.

PRIME MINISTER

Well, you must just appreciate gentlemen, that if this Bill is passed and now that the Turnhalle has dropped their claim, you must accept that South West Africa is in a state of election and they'll want elections as soon as possible.

BOWDLER

We fully realise the pressure, Sir. We are just pointing out some of the difficulties that we have to face now.

BOTHA

The worst thing that can hit us now is a prolonged uncertainty. That is the worst.

McHENRY

On the other hand, again I want to caution. Elections are not an overnight process. In the first place there is all the machinery which has to be set up in order to have them. And for elections to be fair, and some of the other things that we've been talking about, like the return of people to the territory and like the release of persons who are detained or who we consider political prisoners. We've got to have enough time for those individuals to participate in the political process.

BOTHA

But we have been talking so far about the appointment of the Administrator-General and for the coming of the United Nations representative, so that process will only really start from there onwards.

McHENRY

I understand that and there is a reference to past elections and I don't want caution on it.

PRIME MINISTER

What is time - consuming is the drafting of the regulations and the polling booths and that sort of thing and we will dispose of that in the meantime. We will go on with the spade work and we will do all that work so that there is no delay there.

BOWDLER

Mr Prime Minister, you can ask, invite the Secretary-General to send this representative. That is one step and that I take it, you will envisage having the Administrator do or doing yourself after the Administrator is appointed.

PRIME MINISTER

No, we will ask the Secretary-General immediately after this to appoint a representative.

McHENRY

I really think we ought to, that these kinds of things ought to be worked out with a little time. For example, I see a needless problem with the word "invites" versus "appoints". And I don't think we need to get into it and I can just see it as a needless wrangle and we don't need to give anybody a basis for wrangle.

PRIME MINISTER

I don't care how he gets there, as long as he gets there. I am not married to words.

McHENRY

That is why, I think your view is the same as mine. I am just saying I can't think of all these things right now and I don't want it to get into something where we get into trouble.

VORSTER:

But I just want to dispose with the point that a representative of the Secretary-General will be invited to

appoint that representative - whether you invite him or whether the Security Council invites him, is immaterial but being my internal affairs I must naturally, for the purposes of record as far as my people, be the man who makes the invitation.

FRENCH REPRESENTATIVE:

So you intend to make a statement to this effect.

PRIME MINISTER:

No, I do not at this stage intend to make a public statement about it.

MURRAY:

Mr. Prime Minister, isn't this really a problem to be worked out between you and the Secretary General in such a way that it meets both your requirements. You both have requirements in mind and I am sure that the correct way to proceed is informal contact between you and the Secretary General so that this act which are agreed upon can be carried out in a way that takes account of both your realities.

PRIME MINISTER:

You are right and we will contact him as soon as possible. And raise also the matter with him of a judicial commission which we have now agreed will be three South African jurists and three to be appointed by you, by the Secretary General.

MURRAY:

Mr. Prime Minister, allow me to make another point - perhaps we could prepare the ground for you a little before you reach that stage that we are quite certain nothing went wrong at this delicate phase of the operation. I mean we have heard your points, the Secretary General also will have points and perhaps there will be a bit of honest brokers we can do to be quite certain that there is no hitch appearing.

PRIME MINISTER:

Okay gentlemen, I am prepared to accept that even with the word "honest" included.

SCOTT:

Mr. Prime Minister, it might be - this of all points to something which I think we had in mind earlier on, which was that there would have to be perhaps another round of talks which maybe does exactly all of this, I mean which sets up

PRIME MINISTER:

Frankly my difficulty, Sir David, will be again that you will be coming to me and say you haven't got authority to dispose of the matters. Then we start all over again.

SCOTT:

No, I think this should be taking this thing on from here, because such a round of talks might involve for instance a joint meeting with for instance the Secretary General.

PRIME MINISTER:

When?

MCHENRY:

I think with all deliberate speed.

BOWDLER:

I think the important point is Mr. Prime Minister, that we now have to talk to a lot of people before we can take the practical steps that you

.....

BOTHA:

How much time do you need to do all this?

MCHENRY:

This is one of the points which we had as an item of discussion - venue and timing for further talks - because we share your concern about the need for moving the thing along, and we really wanted to get your ideas on how, after we had made our additional reactions, how we can then get back together in a way which I think is technical not in terms of broad agreement and it is filling out technicalities of, and during the time of drafting which doesn't require all of us around.

And I think our suggestion was that after we had been able to do the same kind of soundings that we have done previously, we might get together at a technical level, but at a level where there is sufficient authority and knowledge of this question where we would have access to the Secretary General. That doesn't have to be - it can be in New York

or be some other place where we agree to where we would have access to him.

BOTHA:

We have a difficulty. Everybody knows there's been these talks, Turnhalle has got a difficulty. We have a difficulty in saying to the public how the road looks ahead. We are going to have tremendous uncertainty. It is going to become known Turnhalle dropped and what now, what is the answer, what is happening? What is the next round, what is the next step?

MCHENRY:

I think we can say - we might propose that we ought to be in a position of - I'll get shot for this, because it looks like my July has just gone - that within the next month we ought to be able to carry out this kind of detail that I was speaking of. That would give us time to do some of the consultations which we need to seek clarification so that we could get to the point where we could spell out in detail the kinds of things which I think are necessary if we are not to have any misunderstandings later. We are going to - if we are going to have this thing where we have gotten differences to the irreducible minimum.

PRIME MINISTER:

I'm just afraid - and I don't mean you gentlemen sitting around this table - but I am very much afraid that there will be people who will purposely drag their feet and you know as well as I do that there might

be such persons as far as you are concerned, and I know that there will be those persons and consequently, gentlemen, you must not take it amiss if I say that I cannot wait for people to drag their feet.

SCOTT:

We have been talking for weeks on this. This is the months we're talking about

PRIME MINISTER:

No, I'm talking about months now. As I see it and I am thinking aloud now, I want to foresee that we will have the elections within six months.

FRENCH REPRESENTATIVE:

I think we need a new ground in a place where the Secretary General is available to finalise this United Nations involvement matter. That is our programme.

PRIME MINISTER:

Well, in view of the fact that there is no interim government, much of what you said about the United Nations Secretary's involvement now falls by the way. As I see it, and his main task will be to see that the elections are free and proper.

MURRAY:

Mr. Prime Minister I wonder if this is the point at which I would make the general remark that I was going to make about United Nations involvement. And I make it there the more happily because I feel that full

United Nations involvement is very much in your interest. I would like to quote two remarks, one on the record and one off the record, that your Foreign Minister has made. He said to Sir David earlier on, that it looks as though Sir David had - that the South African government had very sinister intentions. Well, I don't think Sir David shares that view, but there are a lot of people who do share that view; and the second remark that Mr. Botha made to me quite informally off the record in exasperation, he said: "The United Nations will never accept any results of the elections, even if they are fair. The United Nations is so biased." So this is the situation that we are faced with in realistic terms. So the point is not merely that the elections are fair, but that they seem to be fair and that no one has any excuse subsequently for saying the elections were rigged.

BOTHA:

But that is why we accepted this.

MURRAY:

But the point is that I would like you - if I could convince you - that fairly detailed United Nations involvement is in your own interest from this point of view. Now we accept, I mean there is no doubt that the United Nations representative should satisfy himself that the regulations are fair, but any of us who have been in any way involved in politics knows that there are other ways of interfering with elections other than simply the regulations. Now I would hope that you would accept that the Administrator General could as it were, be observed so

that ultimately if there was any question of a challenge there was an international official who could say that I was present throughout the preparations and I assure you, the international community, that this was entirely fair.

BOTHA:

But we have not ruled that out at all, it is a question of timing

MURRAY:

I'm just making a plea for your general approach.

PRIME MINISTER:

But Mr. Murray isn't it perfectly fair to say that the Secretary General's representative can be here in August.

MURRAY:

It is, I'm just hoping you won't suggest that observation is undue interference in your affairs. I think it is in your interest to maintain

PRIME MINISTER:

But he can observe everything that he wants to observe, I have no objection to that.

BOTHA:

We have been talking about time so far - time !.

MURRAY:

Time is one element where I am happy to see that you accept the point we made earlier that it is important that the United Nations representative should be got on the ground very early.

FRENCH REPRESENTATIVE:

The Secretary General will not take a decision without a general consensus about it and the time we need is to convince him.

BOTHA:

Yes, but are you going to need a year to convince

FRENCH REPRESENTATIVE:

No, a month or a week.

BOTHA:

Let us be frank. Either there are people, it doesn't matter what you do, as Mr. Murray quoted me, who will not accept. We know this. Now, if you are going to try to convince those who do not want to be convinced, you can forget about it, that is the only point I want to make.

FRENCH REPRESENTATIVE:

No according to our first contacts there are people who are able to be convinced. I speak about the example of the Frontline States but we need time to explain to them. And if they are not favourable to the planning now, it's possible we don't send somebody. So we need time.

BOTHA:

You put us at a terrible disadvantage if I might say so. I'll tell you why. You come to us and you get fairly definite replies from us, but you never come back to us and give us anything definite on your part. In the meantime, what is happening now in South West Africa? Turnhalle is gone, uncertainty is growing, instability is growing No but

after yesterday afternoon there was a definite expectation that Turnhalle will govern that territory within a month or two from now on. That is the point I am trying to make.

MCHENRY:

Mr. Foreign Minister I think that we after these talks we will have the kind of information on each of the elements we expressed in our first talks, which will enable us now to provide you with the kinds of answers you want. But it is only now that we are able to approach that. And even now there is a major element which has to be worked out before I think anyone will express any final views, even before you will, and that is - you will want to see what the United Nations specifically is going to do. And the Secretary General is going to have to, even - before he gets a mandate, there is going to have to be some knowledge of specifically what he does. He doesn't act without a mandate.

BOTHA:

I fully understand that from my United Nations experience. But it is because of my United Nations experience that I also understand the difficulties ahead then as far as time is concerned, because there are elements within the United Nations

MCHENRY:

There are difficulties, we recognise them and that is part of this whole very difficult task of moving ahead on this question. And it is something that will have to be tackled. I think two months ago we all would have

talked about the difficulties on the question in general. Now the difficulties have been considerably narrowed and what I think we need to do is to continue the process from now on to tackle the new set.

MURRAY:

Mr. Prime Minister, if I could just add to that - when we came here six weeks ago there were two parties to this affair who were very, very wide apart: The South African Government and as it were the United Nations collectively. Now we have applied a good deal of pressure to you and although we may not wish to say it on the record, we are in fact appreciative of the extent to which you have moved to help us in our role.

PRIME MINISTER:

You have applied no pressure on me whatsoever

BOTHA:

On the Turnhalle

PRIME MINISTER:

No, you did not pressurise me in the least.

MURRAY:

Right sir, that is a very satisfactory position. You have shown an understanding of our objective and you have moved in certain directions which we have appreciated.

PRIME MINISTER:

And now all that we want is a similar understanding from your part.

MURRAY:

I was going to say we have still another party, the United Nations to move, because so far most of our efforts have been directed at you. Now our task at the United Nations is complicated. That doesn't mean we are not going to succeed, but there are people in the United Nations who have difficulty of certain juridical conceptions and so on, which will make it difficult for the Secretary General to take on certain tasks or this task. So we have got to, as it were, to prepare the ground. Now we are confident that we are going to succeed. But it is going to take a little time and we are simply asking for that time to work on the various elements of the United Nations system so that we can confront you, present you with a package that will be acceptable to you.

PRIME MINISTER:

Now, if you say you want time, Mr. Murray, how long do you want?

MURRAY:

We are talking in weeks, I hope.

MCHENRY:

I was suggesting that we would look for an additional meeting but in a place where we have access to the Secretary General, at the end of the month - within a month from now.

PRIME MINISTER:

Well, seeing that I will not be present at that meeting, will you allow my colleagues just to consult about it?

BOTHA:

Does it mean that we must go there?

MURRAY:

Well, its a question of convenience, really.

FOURIE:

In practice if this meeting had taken place elsewhere, we would never have been where we are now.

MURRY:

No, we accept that, we accept that completely.

MCHENRY:

The point we are talking about. That is why I said we are talking about not broad agreement on the principles, but we are talking about the detailed implementation of them.

PRIME MINISTER:

Now, gentlemen, let us look at it this way - we are all agreed that the Secretary General himself will not be the person, he hasn't got the time and therefore he is out. We are agreed that he will have to appoint a representative.

Well that is something that you can carry on with straight away. And there is precedent for the Secretary General to appoint a representative, so I don't visualise that that will give you any trouble whatsoever. Let him then appoint a representative, you know what is at the back of all our minds. Brief that representative, let him come to South Africa and let he come and discuss the details with our officials here.

BOWDLER:

But again Mr. Prime Minister we must stress to you that we have a first step to take. A very complicated first step of telling the rest of the world now what we have accomplished.

PRIME MINISTER:

But I think you have the rest of June, you have the rest of July. Then you send the representative of the Secretary General here as early as possible in August and he settles down with the Administrator General and they discuss in conjunction with us, if there are any problems, what should be done and what should not be done.

BOWDLER:

Mr. Prime Minister with all due respects, I think you are skipping one step which is what Don was referring to, that once we have taken the other side closer to us, we then have again to meet with you and with everybody concerned, the Secretary General, to work out quite a number of details and so on. And then only will we be able to move to the Security Council for instance but we do need a resolution in order to appoint this chap.

FOURIE:

But see how it works in practise. I mean this man that the Secretary General sends out, need not necessarily at that stage have the name of the special representative, he sends a man here, have these discussions that you have in mind within a month.

MCHENRY:

The problem is, Mr. Fourie, the Secretary General is not going to move without a mandate.

FOURIE:

Yes, but you've got a month to get him that mandate.

MCHENRY:

He is not going to move without a mandate. He's not going to have a mandate until he gets an understanding of what we mean, what you mean, are United Nations involvement. He won't get a mandate until then, and it is one of the things which needs to be - it is the spelling out of that.

BOTHA:

Exactly, and that is why I was rather frank about it. The Russians, the Chinese and all sorts in the Security Council. It's my prediction - that's what I told Mr. Murray, it doesn't really matter what we do, forget it.

MCHENRY:

Mr. Foreign Minister, I think you are wrong. I think you are wrong on that. The Soviet Union and it has certainly been our experience, the

Soviets and the Chinese could be isolated and they can be in a position where they can't do anything but sit there - they don't vote. And that is what we need to work for. Again, it's the irreducible minimum we are trying to get. We are not trying to please unreasonable men.

BOTHA:

But they've got a point. The Secretary General won't come without that kind of mandate, Prime Minister.

PRIME MINISTER:

But I don't see Mr. McHenry's difficulty. You can go back now and he will discuss it naturally, have further discussion about the Secretary-General's representative's powers, etc. etc.

But be that as it may, you can go back and you can say that there will now be free elections in South West Africa. To make it to be seen that these elections are fit and proper, it - the Secretary General needs to appoint a representative, and you can dispose of these matters in the meantime and get your decision, get your mandate for the Secretary General.

BOTHA:

Because even - my problem is this, Ambassador McHenry, is this: even if the man comes now to South West Africa and he sits there with the Administrator General on a day-to-day basis. At no stage will you be able to say for sure that it will be free and open, because as you go along in practice there might be points with which he might not

agree, so the question of ironing out that aspect can never take place until you move into the process of actually doing the work.

MCHENRY:

That I understand, but to get, to gain an understanding so that we know what the Secretary General means, what he says what his needs are to carry out his task. So that you know that. It seems to me that there will be a need for some kind of preliminary discussions and he will have to have that before he even tries to get that mandate. I could be wrong about that.

BOTHA:

Mr. Prime Minister, as I see the difficulty right now, the gentlemen here wants another meeting. They want it to take place in New York where they've got access to the Secretary General or his representative. I have difficulties about it. We also have difficulties - quite a lot of people to consult all the time. As a compromise, I wonder whether we can't then have another meeting here without you and the Secretary General can send his representative with.

FOURIE:

Not the one officially designated, but a man to talk to.

MCHENRY:

The Secretary General won't send his representative any place without a mandate. He just won't do it.

PRIME MINISTER:

Did he go to Maputo with a mandate?

MCHENRY:

Yes, yes.

PRIME MINISTER:

Dit verbaas my. Which means I'm surprised.

BOTHA:

But certainly he often travels to far corners of the world without specific instructions.

MCHENRY:

Not on a political question of this nature. With your experience you know he won't do that.

SCOTT:

Prime Minister, you suggested that the Secretary General himself would not be involved, but I think, in fact that may be wrong. I think he will get very personally involved in discussing the sort of moralities of this before he makes up his mind how the mandate should be exhorted and - I think you maybe underestimating him in the sense that he won't be just appointing a representative to discuss all this. He probably will want to discuss it himself.

PRIME MINISTER:

But to use your own words, he will appoint a representative to satisfy itself of the political environment and to ensure that the electoral process is characterised by an open campaign and that it culminates in free elections.

SCOTT:

Of course, that is the end product. But I thought you were talking about the discussions which were necessary in order to get that person appointed. And I thought you were assuming that not that person would be sent for a further round of talks here, but some representative of the Secretary General who would work out the appointment of this special representative.

PRIME MINISTER:

Yes, all that I am saying is that if you go back and you say to the powers that might be, that there will be free elections in South West Africa and for that purpose it will be necessary for a representative of the Secretary General to appoint a representative to satisfy itself, etc. etc. Get your mandate and in the meantime send out a man to discuss the details of it.

MCHENRY:

Mr. Prime Minister, our task over the next three or four weeks is to persuade the Secretary General to do exactly this. And he is not going to do this, unless we can satisfy him that he is going to get a mandate and that the job to which we are asking him to appoint a man, is a reasonable job and the man will have reasonable facilities to carry out that job. So we have got to convince, not merely the Secretary General himself, but a number of reasonable men whose cooperation will be necessary for the Secretary General to get his mandate. So that is why we have got to go to these people with a package, and if we can convince them that this package is alright, then we can arrange for a mandate for the Secretary General and then the Secretary General will

willingly

BOTHA:

Well, but don't you have a package?

MCHENRY:

We've got one element of the package, we've still got to thrash out the question of United Nations involvement.

BOTHA:

What must be thrashed out?

MCHENRY:

Well for one thing we've got to find out on the United Nations side the kind of - it's not thrashing out that you can do, it's more thrashing out the United Nations themselves can do, the kind of machinery they require

BOTHA:

And then you want to put that to us?

MCHENRY:

We want to put the package to you at the next stage.

BOTHA:

In the meantime you are leaving us in total uncertainty as to anything. Turnhalle having been dropped, we are getting nowhere. You've got very little hope of achieving that, and in the end we are

the losers.

MCHENRY:

I don't accept your statement that we have very little hope of achieving this mandate. We have, as I indicated in our initial statement, we have carried on extensive consultations on this question. I think most of us or some of us here have spent several hours with the Secretary General. We've had discussions with others, including the Front Line States, and I think that in general there is a very large amount of encouragement about this process and about these discussions and I don't accept your statement that there is no hope of getting this done. I think there is some hope of getting it done, I think there is - it is more than hope.

BOTHA:

I said little hope.

MCHENRY:

I think it is more than little hope. I think the prospects are very good. But I think the prospects are good if we continue to handle it in a very careful manner and I would hate to see the whole thing dashed by not doing so.

BOTHA:

But again Mr. MCHENRY, frankly, let me re-emphasise. All the basic elements that form this dispute over 31 years are there, that can be

complied with. On top of it the Turnhalle idea that appeared such a great obstacle, that has been removed. Frankly, I must say that I don't seem to understand, it seems to me you - what is the problem, why can't we move fast now, why can't we move forward unless with all respect, gentlemen, you think that you will have to react to the more radical demands that will now be put again and again and force you in a more radical position all along the way. Unless that is at the back of your mind.

MCHENRY:

Mr. Foreign Minister, I don't think that we've taken any radical positions here, I think

BOTHA:

From the South African point of view some of them were pretty radical.

PRIME MINISTER:

But gentlemen, let us come back to Mr. Murray's points. We have point number one. What other matters do you want to bring up for discussion with regard to the Secretary General, Mr. Murray?.

MURRAY:

The only point that I have with regard to the Secretary General is that he has got to be persuaded to appoint the special representative. He's got to be persuaded of the nature of United Nations involvement to which we are committed.

PRIME MINISTER:

Okay, from your side spell it out, then we can tell you whether we can go along with it or not.

MURRAY:

We can't spell it out because we are not the Secretary General.

PRIME MINISTER:

No, but you've got to sell this to the Secretary General and tell us what points exercise your minds which you want to put to the Secretary General and then we can say whether we go along with it or not.

MURRAY:

Well it's precisely this kind of dialogue with the Secretary General that I see as the next step in our exercise, for so far we have not had the views of the Secretary General on the details. We simply presented him with the results of our discussions here. We have not attempted to elicit his views on how he could discharge

BOTHA:

You referred us last time to quite a number of other countries where it happened.....

MCHENRY:

Mr. Foreign Minister, we referred you to those examples in general terms. We now have under way detailed studies of those past examples of - and those studies have been done as rapidly as possible. They are

not completed. We have'nt discussed with the Secretary General the details of his involvement. And it would be misleading for us here to suggest something which we would be, later be held to and which we gave from the tops of our heads.

BOTHA:

Sure, I understand that. But may I just ask this then: that there are precedents, quite a number, you referred to it the last time. Now if it is stated that those illustrated examples, it's functions will be of the same order, the same nature, it's - then the point I want to make it's not really such a wide open subject. If he can be told: "Look Mr. Secretary General it will be more or less the same kind of thing for which there is precedent."

BOWDLER:

Namibia, South West Africa is something rather large, geographically. Part of the study will have to consider what is the job to be done? Where are the people in South West Africa? We are not talking now of a little island where two guys can

BOTHA:

No, but there were other places, they were not only islands.

BOWDLER:

Yes, but they have to consider the very reality of South West Africa. What does it involve, and this is what has not been done yet in detail, this is what

PRIME MINISTER:

But gentlemen, really it seems to me we see ghosts where there are no ghosts. You know the United Nations, you know this problem, you've been at it for ever so many years. You've had hours of discussions with the Secretary General you tell us. Now surely, I don't think it is impossible for you for a moment to put yourself in the Secretary General's place. I know you can't decide for him, but tell us what sort of assurances, call it what you will, will the Secretary General want before he goes into this. Then we can discuss it now and then we can tell you whether we can go along with it or not and that will facilitate your task.

BOWDLER:

Mr. Prime Minister I think that we're all agreed that we are talking of weeks. Two or three months maybe, but something of that order.

PRIME MINISTER:

No, three months is far too long. Timewise and I am just thinking aloud and you won't take it amiss when you wanted us out in 24 hours. Now that we want to get out, you want to keep us in.

BOWDLER:

I think we're also reaching July and August. You just told us you're taking July off. Some people in New York expect to do the same thing and others in August and we may run into these problems.

PRIME MINISTER:

Yes, I saw it first

BOWDLER:

But I think that we're agreed that this is a relatively short time if one considers that it is the end of a 31 year process.

FOURIE:

But I think the point of issue now is - earlier it was a question of another meeting where you said somebody or the Secretary General must be available. So the Prime Minister said he was not going to attend this meeting in July, and he looked at the Minister and I don't know whether at myself or not, but somebody here will have to be available for that meeting. And then the next point was simply where would this meeting take place. So we made the point that for various reasons, and to use the example that if this meeting had taken place for instance away from South Africa we would never have got as far as we did. And I think also when it comes to matters of actual implications on the spot, if we were not here to have contact with those who would be directly concerned, I don't think we will make the same progress either.

MCHENRY:

The problem we as gentlemen can come here without mandate, and we can carry on these discussions.

PRIME MINISTER:

I come back to my point. You want to go to the Secretary General now, with what do you want to go to him? I just want you clear up with us with what you want to go to him.

MURRAY:

I think Mr. Prime Minister, I think our main task is not so much to persuading the Secretary General as persuading other people whose blessing will have to be available before the Secretary General is willing to take on this task.

PRIME MINISTER:

Yes, that is your indaba, that has got nothing to do with us. You do that in your own way.

MURRAY:

But if we have got to present these other people with a package as it were which includes the things which we've discussed here, plus the nature of United Nations involvement - and that will require a certain time to get that package. And when we have persuaded a certain number of reasonable people in the United Nations that this is going to lead to a peaceful solution of the Namibian problem, then the Secretary General, I'm sure, can get his mandate.

PRIME MINISTER:

Well all I'm asking you now is to identify with us here what you mean by Secretary General's involvement, then we can say to you whether we can go along with that or not, because that is what you will ultimately put to the Secretary General.

SCOTT:

May I make a radical suggestion, which is that I have an idea that

we are too large a group to be discussing this kind of problem, because a lot of us are not really too concerned and too well informed about New York and I'm just wondering if it wouldn't be, if I could propose that we delegate one or two members of our team to discuss this with, perhaps the Foreign Minister and Mr. Fourie either now or after lunch, so that they can clear their minds rather get themselves involved in a discussion which appears to be getting

I don't believe there is very much between us on all this, but somehow I have a feeling we are too large a group for setting out this kind of

PRIME MINISTER:

But we were on the road yesterday when you started mentioning the various points.

SCOTT:

I think we've got a heck of a long way along the road if I may say so. I think we've made extraordinary progress, but it's this real question of what the Secretary General will require. One of my own feelings is that it will be to your advantage - to your - to South Africa's advantage to be able to be around when the points have been put to the Secretary General which to some extent will be your points, and I can't tell you what those points will be because I don't know at all. Will it be reasonable to suggest that we adjourn into a smaller group

BOTHA:

Not now

PRIME MINISTER:

But when can you meet?

BOTHA:

I've got to meet with the Turnhalle, Mr. Prime Minister, I've got very big problems there, and I've got to first see them. We haven't seen them since yesterday.

PRIME MINISTER:

Well - take a leaf out of these gentlemen's book and take your time about it and tell us when Four o'clock gentlemen? Then if you don't mind we will take the adjournment now. And it is understood that I will give notice of this Bill in my House tomorrow?

MURRAY

We were talking about UN involvement. We stated some general principles by which we still stand but I thought it might be useful if we just went over once again the actual tasks that we see the UN special representative ...

FOURIE

Did you say you still stand by that?

MURRAY

Yes, yes coming over the general statement of principles to any observations you would like to make

FOURIE

Because I think on that - it wasn't discussed this morning - but as I understood it the minister of - correct me - our people have got some grave problems with this because it goes much further than what was envisaged by the election when it came to agrees their supervising administration. We didn't want to discuss it this morning because we were afraid once we get involved with words then we magnify the differences ...

BOTHA

Then it could have been shot down there and then.

(deurmekaar gepraat)

MURRAY

If I could put it in slightly more specific terms it might in a sense be less controversial. This is not in any sense final - it is just something that we just worked out just now. Now look, I'm asking you not to hold by every word - it is just a general indication. The first task as we see of the Special Representative after his coming to the territory would be the examination of the

existing legislation for the territory to ensure that it wasn't discriminatory and that it didn't impede the full participation of everyone in the political process. I mean, I know that the Administrative General and so on will have repealed some but just to look at the existing laws and make up his mind that they are not discriminatory and don't impede full participation.

FOURIE

You mean discriminatory in the sense of the elections?

MURRAY

In the sense that we have been using it throughout the paper. The removal of discriminatory legislation. The second task would be the examination of the electoral legislation to which we all agree. That's not a controversial point.

CANADIAN REPR

The examination of course, I think as you have agreed, the examination will take place before the law is put into effect.

MURRAY

Thirdly, the monitoring of the political campaign. Now by that I mean the kind of thing we have in mind, is satisfying himself that the regulations for political parties are being complied with by the parties and by the administration.

FOURIE

In other words satisfying that the electoral rules and regulations are being observed?

MURRAY

Are being observed as far as the parties are concerned.

FOURIE

That all parties adhere to rules.

VOICE

That everybody plays the game according to the rules.

MURRAY

Satisfying himself and all the illustrations that all parties have equitable access to press and radio.

FOURIE

Well, that is - I'm sorry Mr Minister - you know they've got access but you know here in any campaign one party is supported by this paper and one by that party.

MURRAY

We had particularly in mind the official radio.

BOTHA

No party has access to it.

MURRAY

You may wish to decide that in the campaign that people do have access to it.

FOURIE

No, here nobody has.

BOTHA

No one has. It is unheard of. I know that in America it is totally different.

MURRAY

And in Great Britain and everywhere else.

BOTHA

It might be so.

McHENRY

In a place like this - where communication - I don't know - I don't know what the communication situation is but it seems to me that that might facilitate

BOTHA

We have learned in this part of the world that the reason for this is that somebody remains in charge - of course you haven't got commercial stations in this country, we haven't got it. So the State is always involved and for that reason the State has decided to avoid the conflicts of the past when it was tried, I think, once only - that instead of the hundreds of complaints that immediately flow in all round namely the announcer there just announces that somebody in a prominent position did something good - then the others all consider that to be biased, an unfair advantage etc. You take my position. I fought an election and there were a hell of a lot of complaints against me because every time I met with you here I was on TV. My opposite said: what the hell is this, they're considering it as advertisement.

MURRAY

I don't think it is worth pursuing this. Except to say that this is clearly a point on which you will have to convince the UN Special Representative that your case is right.

FOURIE

Or put it this way. That steps are not being taken to favour one - you know by radio to - you're not favouring but to give them equal access

MURRAY

Well just put it down as press and radio.

SCOTT

Well we thought of equitable access to mass media. Now if one is out of the question because of custom or whatever then nobody has it - it's equitable. But the papers for instance

BOTHA

Everything that is in private hands - this is the if it is in private hands it is fine - they can do what they like on condition that it is not obscene and that kind of thing.

BOWDLER

The other thing that we were thinking of is Will it be possible for the Administration to consider for instance granting equal time or equal space in disguise of is it out of the question?

FOURIE

But you see the Administration doesn't own any paper ...

BOTHA

The Government doesn't own the papers.

BOWDLER

We were being concerned in a place like Namibia that only the rich will have access.

BOTHA

My friend, I'm afraid this is the position throughout the world. In effect I mean the church there in the North - the Ovambo/Kavango Church - they've got a press and paper of their own which is vehemently anti-government and then in the south you've got three papers against the one that supports the government. There is only one paper that supports the government - out of the four. The German paper is anti-government. The one Afrikaans paper is anti, and the English language paper is anti.

McHENRY

The thing we want is - if there is access ..

MURRAY

I think I should warn you - probably you'll have to argue this with the UN Special Representative because most of them will come and say wouldn't it be good that the people should know what they are voting about.

FOURIE

Yes, but you can tell him before hand - there is no question of granting time on the radio ...

BOWDLER

Well this is one of those things that will have to be discussed.

BOTHA

I'll play open cards. We won't be able to stop for instance the Ovambo Government - that is in power - from making announcements on the radio which then immediately be interpreted as unfair or what-have-you - that kind of thing. So in election time they watch this very, very closely. Now favouritism is shown none what-so-ever.

FOURIE

Mr Minister - the wording equal access to press and radio. Access - it means access is not stop to anybody and anyone can go to the Press and to the Radio and state their case. Whether the press publishes it or not .. I mean -

FRENCH REPR

I think the general representative will see a problem in the fact that the radio is state-owned as you said and there are people involved as parties in the election campaign who at the same time are holding a position for the State and in this capacity they can use the radio and then of

course profile themselves and boost their image and campaign that ...

McHENRY

You were saying that that was very difficult to do.

BOTHA

Exactly. Exactly.

GERMAN REPR

But for instance - for the referendum the whole Turnhalle was campaigning in the Radio in Windhoek.

FOURIE

No, but you see what is news ..

BOTHA

You see that was not considered, in the normal sense of the word ...

GERMAN REPR

I know - it was a referendum but could not those people keep their access to the radio who are for instance in your council - that is constituted by the Whites in Windhoek.

BOTHA

It is watched very closely because the moment they do it then there is a request from the other side immediately to put their point of view, this, if equal time comes into it and all that kind of thing.

MURRAY

I mean, clearly one of the things he will insist on is strict impartiality of all official channels of information. I mean one of the things that the UN Special Representative will certainly insist on is strict impartiality on all official information.

BOTHA

That's fair enough.

MURRAY

Of course I mean the Administrator will have to explain the administration will have to explain the elections, the electoral procedures and so on and they will have to explain that in an entirely impartial way.

BOTHA

But officially there are no papers. There is no official paper.

MURRAY

No but there'll have to be announcements. I mean someone will have to explain about the elections - I mean ...

BOTHA

The referee says these are the rules according to which you guys must play the game. The only official media there is the radio - there is nothing else.

FOURIE

..... official, it's got its own charter ...

MURRAY

Well, it is like the BBC isn't it?

FOURIE

You remember when we always complained that the BBC, you said you have no control ... We learned these things from you.

BOTHA

Andy Young was right after all.

FOURIE

Mr Minister, just before we go further - you used that word monitoring of political campaign. Can we just to get on as far as words are concerned observing of political campaign. As I understood you - what you meant by monitoring this is what it meant. Our people will immediately say what do you mean by monitoring - the same as I did. So were you trying to find a word that we know.

MURRAY

Well, we were trying to find a word they didn't know. The dirty words are supervision, control and observing. These are all three emotional words. Supervision and control - we understand why you don't like them. On the other hand people don't like observation. So that is why no one as yet has used monitoring.

BOTHA

But why not - you've got the word satisfy there. You don't want to lift into a better phrase. Satisfying himself .. it is the same thing.

SCOTT

It is the same thing. I think we mean the same thing.

BOTHA

Satisfying himself that the political campaign regulations are complied with.

FOURIE

Satisfying himself that all parties ...

MURRAY

It won't be so easy when we try to put this into satisfying himself. It is not just himself because it will be more

than himself. We're only being illustrative. Another thing he'll have to satisfy himself is that there is in fact freedom of movement. That people can move about and campaign. And now we come to the most delicate of all, which is he must satisfy himself that there is no intimidation and this is the really delicate one because it is here we come up against the question of the South African Armed Forces. As you know a lot of people say they should be withdrawn before elections be accepted - that is out of the question. What we've got to do is somehow to ensure that there can be no accusations that the South African Forces behaved improperly during the election campaign.

BOTHA

It is completely impossible to do. There is no visibility for all these forces.

MURRAY

I know but people won't accept that and let me finish. All that we have in mind would be an observer with, I don't know how many units you have, but anyway sufficient observers so that someone could publicly declare on record that during the election campaign we were with the South African Armed Forces and at no stage did they in any way improperly interfere in the elections. It would make it so easy - so much easier for us to maintain our things that they needn't be withdrawn for fair elections. Because you know - I mean you've had the criticism - how can there be fair elections with South African troops there. We are prepared to accept that South African troops must remain during this period but in order that we can meet this charge that they would improperly interfere, we will say that the South African have agreed that with each major unit there should be an observer who at the end of the period will be able to certify ...

BOTHA

You don't intimidate people in your military camp - that's not where you do it.

MURRAY

No, you send out a patrol into the village.

BOWDLER

No, but there will be a chap in the vicinity.

MURRAY

What one would hope that the observer established - not accusing. Would establish a proper relationship but they don't have to be in that camp. He doesn't have to be in that camp - he must just have access.

BOTHA

Access to where?

MURRAY

Access to the commanding officer and the operational plans.

BOTHA

The what?

MURRAY

On where they are patrolling during the election.

BOTHA

You said the operational plan.

MURRAY

During the election. I mean he can't simply sit and be deceived. He's got to be able to say I know what they did and they behaved properly.

BOTHA

There are no operational plans to intimidate people. That's not the army's purpose at all. The army's purpose is to stop other guys who want to kill people or want to come in.

MURRAY

It's got a certain advantage.

McHENRY

And that is also why that observer is there to spot the guy who wants to come in - I mean it is a two way street.

BOTHA

Over 1800 kilometers?

McHENRY

They're doing it every day. They're doing it every day with all kinds of things in the Middle East.

MURRAY

It is just some way we can give people an assurance ...

FOURIE

How large is a group that observes a truce. It sometimes is ..

BOWDLER

You need one per area.

BOTHA

But surely I mean it is going to be the easiest thing in the world I assure you, and if you doubt my word we can test it. If a person dies or something extraordinary happens tonight in this African village, I give you the assurance by tomorrow morning it is known 100 - 200 miles from there, it is known, as sure as we sit here.

McHENRY

That may be but the fact is - and we discovered this in our it is an old thing - there have been constant references to it. I think we have discovered it also in our briefings.

MURRAY

Time and time again. They say how can there be fair elections. Now this is a criticism of them in their own countries the army would intervene. I mean they just expect the South African Army to behave the way lots of their armies will do.

McHENRY

But we got that from Namibians as well. I mean Namibians in the territory. We got this from Windhoek when the 5 went over there.

MURRAY

Yes, that is a separate point.

FOURIE

You see the people who are pro-SWAPO want the forces out for other reasons.

MURRAY

Our whole business is to find some basis on which we can justify the forces remaining.

BOTHA

But let me in all fairness point to you a number of practical examples. There are at times a few army personnel that lecture - give mathematics, agriculture - we are not like you a very large permanent force - we have a citizen force. So guys who completed - medical guys who completed their six years or even practised for a number of years is called up to do now a year of duty. So we take them to the border area and he does the work of a doctor. He works in a

hospital - he operates on patients. The other guy is an agricultural extension officer with an M.Sc-degree and we use him to plan lands, to plough and sow and aid the people

MURRAY

No problem in that.

FOURIE

Can we get back to the words you had again - just to get it down. You actually want somebody - I think at one stage I think Ambassador McHenry said he must have contact with the commanding officer of ...

MURRAY

But I wouldn't even go into the details. No. We just want someone with the Armed Forces as a guarantee.

FRENCH REPR

To be able later to state, I assure there was no interference.

FOURIE

You see what this man must do - if there is an interference, he must react immediately, if there is one. He mustn't sit there and when the election is over and then says no I don't give a certificate.

MURRAY

No, but that applies to everyone in our organization. He must report immediately.

McHENRY

And that is the working relationship between the Special Representative and this ...

FOURIE

Can't you say - ek weet nie minister hoe jy dink - that also satisfy himself that there is no intimidation on the

part of the SA Forces. This is implied here by satisfying themselves, so-and-so, there is no intimidation. Then one can say 'including the forces'.

BOTHA

I have a difficulty of a local nature. I have a difficulty. It includes it for me but if you single them out I have a difficulty from my colleague.

MURRAY

Well, except that they are singled out - well resolution 385 and everyone who talks about the problem singles out the Armed Forces who are special.

BOTHA

But don't you see it implies something locally here that the guys are doing it.

BOWDLER

But throughout every point that we have made, you could see the same implication.

BOTHA

But if it is the firm understanding it includes everybody and every force and every section of the government.

MURRAY

What we're merely saying we didn't want you as it were to shelve a bomb shell later on- and by the way there'll have to be someone in a position to observe the Armed Forces. There will have to be I mean the UN Special Representative will certainly insist that he can somehow satisfy himself that the Armed Forces are not intimidating. He will be asked that question.

BOTHA

Let me discuss that point with the Prime Minister first.

MURRAY

Honestly, we're trying to be helpful - I mean we really want. So there can be a clean bill of goods offered about the conduct of the South African Armed Forces. Because it will be such a tricky point for us - we are accepting your military presence when all sorts of people will say how can there be fair elections with a military presence. This is the only compromise. We don't think it a compromise - we only safeguard ...

FRENCH REPR

We need a reply ready you know, for the criticism we receive on the question of the Armed Forces.

MURRAY

But that, you'll be happy to hear, is the last controversial one.

UK REPR

No, no, his next duty will be assuring that the electoral roles and the registration are comprehensive and correct and that of course will mean listening to complaints. Well, I was just going to make some general remark but ... Then point 5. Mr Fourie is a quick writer. Assuring that the actual voting is secret and free from all improper interference by anyone. And six - assuring that the votes are properly counted and the results properly announced.

FOURIE

Actually all these things from our point of view - this assuring, we make it all satisfying - in practice it is the same thing.

MURRAY

Satisfying himself that -- Satisfying himself that

FOURIE

This is just wording ...

MURRAY

Clearly that was our attempt to ...

BOTHA

But to what extent if I may ask do these points coincide with or tally with procedures followed in the other cases?

MURRAY

I could say this was a perfectly fair description of the task I carried out in the question of the Mariannas.

FOURIE

We are analysing it now -

MURRAY

I can say for example on assuring the voting was secret, I was able to say that except for one outlying booth each booth was visited by a member of the mission in the course of the day. The thing I was able to make statements like that and I naturally - we went through all the existing legislation - we looked at the electoral legislation, we looked at the pamphlets that the administration had prepared describing the electoral procedures and how to vote and so on and then we looked at the physical layouts of the polling booths and during the day we tried to cover as many stations as possible to make certain there were no people fifty yards away stopping voting or questioning people.

BOTHA

That has never bothered me in the least.

MURRAY

And then we listened for example in the political campaign we listened to the political leaders - all of whom came and saw us and all had some complaint that the other side had got the best meeting place on the Saturday night, whereas they should have had it and we endeavoured to sort it out and say well you will have it this Saturday and we will ask the administration and the other party and have it that Saturday. But this was just a question of satisfying ourselves that everyone had a fair crack of the whip. So when we came to write the report we can say nothing was perfect but by and large we are satisfied that it was as fair as could be I mean I think I said in my report that no election will ever be recognised to have been completely fairly conducted, never-the-less within these limits.

FOURIE

Needless to say, these observers too, don't play a part in the election. It depends on what kind of observers you have.

MURRAY

Exactly. Of course the administration spent a lot of time what monitoring the observers.

McHENRY

We've got as I said this morning - we've got a major study on this on being down on a really crash basis. We had a review of it before we left, based on that review I think it's going to be pretty thorough but we'll have to wait and see the whole shebang.

MURRAY

Let me add one question I make in general based on my personal experience. The fewer things that can be settled short of the International Commission of Jurists the better. I mean they are only at most if we agree on six and even if

they divide up into smaller groups for certain purposes. It is only a very limited amount of work they can do - things like electoral disputes and so on must be sorted out between the local administration and if necessary the local observer, because if the local observer says it is allright then only as it were test cases and important cases and so on come up to the juries otherwise the jurists will have such a body of work that we will never get on to the elections because the jurists will still sort of arguing about this and that.

BOTHA

There is just another question of phraseology - I wonder whether we couldn't drop the phrase commission and call it a panel ...

McHENRY

Panel? I think it is was yesterday when the Prime Minister was confused over it. The term is confusing. You can say panel of jurists.

MURRAY

Because panel - we can call it something afterwards but panel is a general word internationally ..

BOTHA

It's not bad to call something by name of an existing body.

VOICE

You're quite right.

SCOTT

We can also instead of saying international - we should also probably say UN, because there are going to be appointed by the Secretary General in any case and call it the UN Panel of Jurists.

MURRAY

But they can also judge the Secretary General. The panel of jurists will have the power to say that the Secretary General was behaving improperly. They are an independent party set up by him to supervise - the administration can take the observers to the international panel, saying look the observers are behaving improperly for a fair election. It will be an independent body of jurists. That's what they are - jurists. As a court of appeal in all cases of dispute.

BOTHA

I think I just better go.

MURRAY

No, we're going to make your political reputation .. You'll get the Nobel Peace Prize.

FOURIE

Is that the lot?

MURRAY

Well that was all we could think.

BOTHA

That's fine then. We better discuss this with the Prime Minister now.

FOURIE

Well, we've got the other meeting now. Do you want a meeting at quarter to five? For the group? What do you envisage there now?

McHENRY

There are a couple of things we need to mop up. One of them is withdrawal of political prisoners

MURRAY

We are just here on the record a little bit about political prisoners.

McHENRY

And we've had some additional discussions among ourselves on this idea of further talks

MURRAY

Actually on Thursday I will give you a preview. I'm going to say I think it would be bad if we've got to wait for the establishment of the International Panel of Jurists before you tackle the problem of political prisoners and to make a plea for you to start thinking about it now and if possible release some people

FOURIE

But the Prime Minister I think, made it clear that the Panel - that the detainees needn't wait for the Panel. All he insists on is that the other chaps must start

releasing too. But the South West African people feel strongly about that. Those people who have lost children and things like that out there. They say how can you give up your last sort of bargaining counter so to speak and our children are sitting in

MURRAY

Well, we feel that the bargaining counter works both ways. That if there were some releases on your side it would be easier - it might facilitate the "de marche" that we are certainly going to have to make about the prisoners held outside Namibia and South Africa.

BOTHA

There are so few in our case, in any case, as far as I can check, so few. I can assure you here - the interesting thing is that the pressure is not from the white side it is from the black side - the Ovambo. These are their people, their family - they want them back.

MURRAY

We've taken the point.

McHENRY

I think the other group we're talking about is those that we call political prisoners and that you don't.

BOTHA

Well certainly the dispute is on from the word go.

MURRAY

Well it is not a dispute - it is views we're trying to reconcile. To get this political process going.

BOTHA

In effect it is no good. It is a dispute because we are going to say to you now and in the future that there are not political prisoners. This is it.

MURRAY

We understand. We simply got to put our position on the record and hope that when you come to reflect on it you will see some light here.

BOTHA

So the sooner those jurists are appointed the better, as I see it. I'm just trying to be practical about it.

McHENRY

Minister Foreign Minister, now in Vienna about this Mr Mondale raised a question which you said you'll consider which was the return of Namibians to Namibia who are in jails. Have you given any thought to that?

BOTHA

Say that again.

FOURIE

The South West Africans who are serving sentence and are being held in jail in the Republic - Mr Mondale wanted to know whether they could be transferred - now that thing you probably remember it, but Mr Kruger - this thing was put to him - and in actual fact they are building, preparing accommodation in South West Africa because I think the old jail was scrapped. It did not comply with modern standards laid down here and so it is a question of providing the accommodation there which complies with the minimum standards of Geneva and whether that would be soon enough with the speed things are moving now - I think in the end

McHENRY

Unpractical, yes.

BOTHA

It's going to be awful to transfer a man - well all jails are pretty sordid places - but I can assure you our jails inside the Republic - the Red Cross visited them - we have a good standing there - and to put a guy from a place where everything is clean - the food is good and supervised - possibly now to a facility where it is worse is not the best kind of way to solve

McHENRY

But in principle

FOURIE

He made a statement - I can get you the Minister's thing where I think

BOTHA

We'll look into it immediately.

FOURIE

He had no objection to it. In fact they have decided on this in principle but it is a question of providing accommodation.

BOTHA

It is a practical problem, but we can look at it and see how we can hurry this up and speed up the process.

McHENRY

The other thing is - we have found in a way which I think we both understand - the Prime Minister - made a

sort of proviso on these detainees and we stated that we would want the release of all Namibians. And you read to us, yesterday, some material, we wonder if it would be possible for you to make available to us any relevant information you may have with regard to prisoners, Namibians, who may be held, wherever they're held, that is those who may be detained or held here as well as whatever information you may have so that we know what we're talking about on those who are detained or held elsewhere.

BOTHA

No, we'll go into that - certainly.

BOWDLER

We'll then see the whole picture.

BOTHA

We'll go into that.

McHENRY

We got a list of something from somebody in the mail yesterday and it was on the same subject but I don't know

BOTHA

I think it is the same, you see the good thing about that one is it was signed by one of the men who actually escaped. Now there you're dealing therefor with a direct eye-witness sort of situation.

FOURIE

But I think what Mr McHenry. Does this list refer to people outside or people inside South West. This list that you've got.

McHENRY

This list, which we got in the mail yesterday, is one which is referring to people outside.

FOURIE

Outside? No, because I thought if you had one that's inside it makes it easier to follow up.

BOWDLER

Not one on which we are prepared to rely. I mean they are clearly compiled by people who have got a vested interest - some forms of inaccuracy. What we would like is a list on which we could rely.

BOTHA

Wouldn't it then be possible for this commission - panel of jurists to visit those places. In our case names are known.

MURRAY

We just want so see the scale of the problem - to see what we have to cope with.

SCOTT

No, I think one will come eventually.

MURRAY

Surely there would be an appeal. I mean, various people will appeal that they're being held as a political prisoner.

BOTHA

Now talking purely about the men held by us.

MURRAY

No, we're talking about everyone.

FOURIE

But you're asking us here firstly, as I understood Ambassador McHenry, a list of South West Africans who are detained in prison in South West Africa and South Africa.

BOTHA

From South West Africa.

FOURIE

Now the point is - I'm sure you wouldn't want lists of people who are serving say 3 weeks or 5 weeks or 6 weeks because then it's going to be impossible.

VOICES

No, no.

FOURIE

The people you are really after are the ones who have been sentenced in connection with say the Terrorist Act and related matters.

BOTHA

What happened last year was, State Department did present us last year with names.

McHENRY

I understand that list was some of them you had, some of them has been released, some of them were dead - and they got that list from somebody who passed to them and that's no basis for anybody to offer

BOTHA

But you'll be surprised - that list - the only thing that was wrong with it was that it contained names of people who were never held at all.

MURRAY

Well, that doesn't surprise us at all. That's why we would rather have

BOTHA

As I remember it, it included all the names - of that I was sure - last year. I can't remember whether I gave the State Department our analysis.

McHENRY

No, as I remember it going over the records, they never got what they thought they asked for and the Ambassador said he raised it a couple of times. But I think you have some information on people who are held outside. It's useful for us to have it. And it would also be useful for us and it would be useful for the work of the commission of jurists. And would help deflect accusations about people who are being held if they are indeed or not being held. If that type of material are made available.

FOURIE

There for instance those children which the parents maintain they are being held. Now, we'll give a list of those children too.

McHENRY

The other thing we were going to raise was the question of further discussions and we have talked among ourselves very briefly and thought that maybe we might best leave that open. It was clear that it gave you some

difficulty this morning and it is also clear that we've got some work to do and it may be that we ought to address further timing after we get a better idea of how far

BOWDLER

I mean we will work with all possible speed and we will keep you in touch with, I think when the next meeting with you might be, but we simply think it is best not to try and fix a time now.

BOTHA

But let us first return to the point as I understood it this morning. You have now elaborated.

SCOTT

We are ready whenever you are.

BOTHA

You have elaborated now I think all the points which the Prime Minister wanted to know this morning. I would first wish to discuss it with him.

MURRAY

We tried to thrash it out. We understand that you are going to discuss it. And then to decide whether you've got points you wish to make to us in return.

BOTHA

That's right. I'm now meeting with the Prime Minister tomorrow morning at 9 o'clock. Now if we can reach some sort of an understanding on the points - say tomorrow, doesn't this assist you in your task?

MURRAY

Yes.

MURRAY

I think we can accept, Minister, your point that if there is general agreement on our approach our task in New York is going to be facilitated in getting the other people interested in United Nations involvement to agree, but it is still going to take time.

BOTHA

Then why would you still wish a meeting with us.

McHENRY

We don't.

BOTHA

This is the point that exercises my mind.

McHENRY

I'm saying, we don't know that that is going to be necessary.

BOTHA

If it is necessary then you contact us. We then judge if a meeting is required - necessary to the process forward then certainly we'll do it.

McHENRY

Fair enough.

I think the only other one which is left - which we didn't get to is the question of withdrawal where yesterday that needed to be spelt out. If we can get into that I think it would be useful if we do that now.

GERMAN REPR.

Mr Minister, it is already in our paper of April 29 - the question of transfer and withdrawal as we mentioned and as you will appreciate this question is of particular interest to the other parties mainly concerned and has played a considerable role in our contacts with these parties. We

should like to point out that in raising this matter again at this stage we try to clarify some of the aspects of this problem in order to avoid misunderstanding. From this you'll see, I hope, from the presentation that we endeavour to be helpful by taking into consideration and also trying to make others to understand that there must be a smooth orderly and peaceful transfer of power. We fully share the South African Government's concern that the transfer and corresponding withdrawal of South African civilian and military presence be systematic so that law and order is maintained and public services continued. And to ensure this, we hope, the South African government will move quickly in drawing up plans for a phased transfer of power and withdrawal which could start initially with the naming of an Administrator-General and continue with measured pace throughout the transitional period.

In our view to facilitate the international acceptability of our efforts two steps would be essential.

- A. The United Nations representative should be kept closely informed of all phases of the plan, and
- B. The withdrawal should be completed by independence subject to whatever agreement may be made later on with the new independent Namibian Government. We are fully aware of the scarcity of trained personnel in Namibia and the high degree of dependency on South Africa. To help overcome the deficiencies we would advise the closest consultation with the United Nations representative who may be in a position to assist in meeting problems which will arise.

Now with regard to the maintenance of public services. We hope that the South African Government in pursuit of the shared objective to ensure an orderly transition and promote stability in the area will continue to lend it's co-operation. We recognise the question of security is an important matter to South Africa. It is

our conviction that an open and clear political process to determine the future structure of an independent Namibia is the best guarantee for maintaining internal tranquility and the integrity of its borders.

FOURIE

Mr Ambassador, just to get some clarity on one point. You said that the transfer of power and the withdrawal should be completed on the day of independence and then you opened the way "there might be subsequent agreement with the independent country". Now just think of what the situation would be. If an independent government is elected and independence will come into being say on the 31st of December. Now this government might be fully elected by November. Now the way we've been operating - take for instance for the Transkei - these things you've got to arrange during that period - from the time the government is ready till independence. So you can't move out and then say everything collapses now until we've made further agreements.

FRENCH REPR.

In phrasing this we just wanted to open this possibility and not - you know - exclude

FOURIE

But the way, you said withdrawal should be completed in any case not later than

FRENCH REPR.

Not later than independence subject to

BOTHA

Subject to what?

FRENCH REPR.

Subject to whatever agreement may be made with the Independent Namibian Government.

BOTHA

The new Namibian Government.

(Bespreking tussen Botha en Fourie of die tikster die hele stuk kon afneem en dit teruglees).

BOTHA

Now there is only one thing. What is happening about South Africa's investment. How is that withdrawn?

McHENRY

Why should it be withdrawn?

FOURIE

But there are loose assets there - many fixed assets. Things like

BOTHA

How do you withdraw a post office?

VOICES

You don't. It is a transfer of power.

BOTHA

Who compensates us for it?

SCOTT

We didn't withdraw the post offices from South Africa

BOTHA

You destroyed two Republics completely, you burned it down, you took the lot and you took all the mineral rights.

SCOTT

Then we built them up again.

BOTHA

You'll be surprised where those mineral rights still today in respect of most farms in the mineral belts - those same companies that were established under British rule - they still exist today.

VOICE

They've got a lesson from Namibia there too.

BOTHA

We haven't done it quite that way. But gentlemen, seriously this is a problem.

BOWDLER

What happened in the Transkei, Sir?

FOURIE

All this was formed, subject of discussion and agreement between the two governments.

BOTHA

There was a government willing to do it. What if you have a government not willing to do it.

MURRAY

Legislate for failure.

FOURIE

In other words Mr Minister, its understood, its implied in the piece that the Ambassador read that this kind of thing will be discussed and arranged also with the new government. I'm not proposing it, I just want clarity on what you have in mind.

BOTHA

It's really a serious matter as far as the Railways are concerned.

MURRAY

The other point is. We have said as regard to the maintenance of public services and we have in mind Railways and Post Offices - we hope, we can't do more than hope, that the South African Government in the pursuit of the shared objective to ensure an orderly transition and to promote stability in the area will continue to lend its co-operation.

McHENRY

Mr Minister, I must say, that we're now referring, and I don't think we have any authorisation that has gone over this point which you're trying to raise here. And I don't want you to believe that this refers to taking up railways and compensation for post offices etc. In fact, and this may be a sore point, when a guardian raises a child, provides it with education and clothes and so forth, it is taken as an obligation, that when that child reaches 21 you don't jerk it back even if the child tells the parent to go to hell.

FOURIE

But to take the example of the child a little further When you transport the child in you car to school and university until he has completed university you don't say - now it is your car. It is still my car.

UNITED KINGDOM REPR.

The matter we have just discussed, we were dealing with authorities, powers and people. It does not deal in any respect with property in that paper. The statement read

By the German Minister in opposition to that under the rubric withdrawal and a transfer of power has been a matter of property and personnel. We have not, as Mr McHenry says, taken up any position or addressed ourselves to the question which you have just raised which is a question of property.

MURRAY

Except in so far as it relates to the maintenance of public services. We still want to express the hope and we can do no more than express the hope, that as Namibia moves to independence you will help it to maintain proper services.

BOTHA

Last time we inserted this one sentence - that this plan will clearly have a number of financial and practical implications which shall have to be considered at the appropriate time. And you remember how we discussed this last time and with all respect, gentlemen, I get the impression that this is the one aspect that apparently has not been discussed by you at all. What we had in mind was some form of guarantee from you.

McHENRY

But Mr Minister, what we did there was ask you to draw up a plan and felt that in your drawing up the plan that these questions would be raised and that they could be addressed as we could solve it with you on that plan.

(Onderlinge bespreking)

BOTHA

I don't know whether this will assist you, but the South African Railways is a corporation and take for instance,

it has in service there in the territory over 7 000 workers. Over 7 000 workers of whom the vast majority are blacks. That's just one corporate. If you eventually count up then you'll find that the State sector employs thousands and thousands maybe 25 000 people. There are practical implications. Who are going to pay their salaries

SCOTT

Would it not be normal on these occasion to ask that the successor government - or for the successor government to ask that these services should be provided on what I think is normally known as a agency basis which will mean that they would be entrusted with the continued running of the railways but they will be doing it on behalf of the new government and for that running - clearly they would not expect to be doing it for nothing.

BOTHA

They all run at a terrible loss there because - let me just explain to you demographic statistics of South West Africa. Your majority of people all live in the north. There lives about 60% of all the people and in the rest of that vast territory live not even two-hundred thousand people in an area about three times the size of Great Britain. Now you can imagine that with these small little pockets and communities and vast stretches of land in between what is the cost of communications, railway lines, road services etc. It never pays. It's got such a small internal market that it cannot produce its own food. All I'm trying to mention to you is that there are shortfalls. Are you going to, from now on, make it up? Are you going to take over the subsidies? On maize, on food, the transportation of coal, cattle? Who takes that over?

BOWDLER

I don't think you would expect me to say yes to that question Minister. Obviously we have no authority
.....

BOTHA

I realise that but you must give me the right to raise this.

FRENCH REPR.

Mr Minister, as for the railways - we are experienced - for we have a railways in Djibouti. But it is a matter presently discussed with the new government, and you know that Djibouti will be independent in June, at the end of June, and we are presently discussing this question of the railway with the people of the new government.

BOTHA

No, but what I'm looking from you is - you can't give me some indication that those monies would be taken over by if you needs be.

UNITED KINGDOM REPR.

Mr Minister, may I ask what was the idea of the South African Government in the previous set-up giving Namibia independence by the end of 1978 under a different system. I'm sure you have contemplated the same kind of problems for that case.

BOTHA

Yes, of course, we have contemplated the same kind of problems but don't forget in that case it was our plan - now it is your game.

VOICE

No, we hoped that the case may be agreed.

SCOTT

The purpose of this is the international acceptability. We wouldn't be talking like this if the alternative wasn't in fact a very unacceptable and disagreeable one.

FOURIE

You see, something that's got to be borne in mind and I don't know how it is going to be handled but it'll have to be thrashed out at some stage or other - when you come to railways it's not government property as such. The South African Railways owns the property there. It comes out of their funds. Now it is quite possible that they may turn round and say to the government, look if you're going to - well, use the word expropriate it and say, this is being taken away from us then you've got to pay us for it. These are things that one will still have to straighten out. I don't know how it is going to be handled but I think the Minister's point is that these are things that at the appropriate stage one will have to sort out.

BOTHA

We want to have a come-back on this.

McHENRY

But again, Mr Minister, if I may go back to the paper which we handled last time. You did raise this and the idea there was that these questions are inevitably connected with withdrawal. As they refer to the development of the withdrawal plans which we have suggested that you might best prepare - then it seems to me once that plan is prepared and all those implications are there then

if something that needs to be discussed. It is not easy to discuss it in a vacuum, I mean that is one of the difficulties we had on discussing the United Nations and so forth.

FOURIE

Take another thing now. The electrical supply side. Now SWAVEC has been created to build those power lines, etc. SWAVEC has borrowed money and that scheme would probably cost 200 million - 300 million by the time it's through. Those are things that will have to be sorted out. Whoever takes over those assets will have to take over the debts.

BOTHA

And the guarantees.

McHENRY

There must be a million precedents for this kind of thing. Our British friends must have 30 of 40 of them around. And it seems to me that those can be addressed in the withdrawal plan.

BOTHA

With this difference Mr McHenry. I can assure you if the British Railways had the length of railway lines in African countries that we've got in that territory they would have reacted exactly in the same manner. If the British Electricity Supply Commission or whatever it is had undertaken this kind of debt that we undertook - it's our taxpayers monies. We'll have to come to parliament and tell them what happened. We've written off as bad debts for South Africa - how many millions and millions - it is an astronomical figure.

FOURIE

But I can see perhaps we must go to work and sort out these things in a proper plan. Then we are down to actual facts.

BOTHA

Actual figures and facts and commitments.'

UNITED STATES OF AMERICA REPR.

To include the amount of taxes that are normally going out to South Africa which would stay in the territory and then could be used to offset

FOURIE

Oh, wait, we can give you that because there is a balance. What is taken is considerably less than what goes in - we can give you the difference in other words the deficit. We can you that, if it helps

McHENRY

But it seems to me that this is not something which is insurmountable.

BOTHA

Before we adjourn, could you just give me 3 minutes please. Would you mind hanging on just a few seconds in case

FOURIE

You see, what we're hoping for, Mr McHenry, is when South West Africa becomes independent, obviously like some of the others, it will probably get financial support from international sources, etc., too - whether it is the bank or whatever it is. And all we want to do, is that these matters I think should be discussed even before independence because otherwise we're going to have a vacuum. But be as it may it seems to me we'll have to prepare a dossier on it,

so that everybody can see what the real problem is in practical terms.

GERMAN REPR.

It is also problem that so far we have never been able - at least since 1969, when you picked up the battle of this State, South Africa took over the financial running of that, the budget was put together - Since then, for the outside world it was not possible to get an exact picture of the movements and - how do you call it - the dependence of agreements and everything, it is not transparent. I mean it is not a reproach but it is

FOURIE

You can .. It's published in a budget but I conceive that you must know our budget to analyse it but for a man who understands the budget it's all there.

SCOTT

Even separation between?

FOURIE

Yes, you can see it but you've got to do some work on it and you've got to find it in various places. I can't do it myself, but perhaps Mr Peterson can but it is there.

PETERSON

We tried there, but we were never able to do it.

FOURIE

I'm really proud of our people then. (Laughter).

BOTHA

I ask if we could adjourn now, gentlemen. We have an urgent matter. 10h30, tomorrow?