

Mr Budd

CDD
35/7

2 errors
v. m. King

SECRETARY OF STATE &
SUMMARY RECORD OF MEETING WITH/JUSTICES OF THE SUPREME COURT,
27 JULY

Present:

Rt Hon Sir Geoffrey Howe QC MP
Sir Patrick Moberly
Mr EAJ Fergusson
Mr AC Galsworthy

Mr Justice Goldstone
Professor Dugard
Mr Browde
Mr Chaskelson

1. The Secretary of State explained the purpose of his mission. Mr Goldstone said that in his personal view sanctions of some kind were inevitable, and that being so they should be used with surgical precision and not as a club. The SAG was not contemplating changes to the power structure, but only to the discriminatory rules. The latter would not in itself mean the abolition of apartheid. Mr Browde added without the unbanning of the ANC and freeing of the detainees there was no prospect of negotiation: he feared that sanctions would not change the SAG's attitude, but they would cause suffering. Mr Chaskelson said that sanctions were seen as supporting the SAG, and the SAG did its best to foster this picture, particularly by representing the UK and the US as allies of the SAG. *Opposition to*

2. In his view the most effective sanction would be cutting of air traffic links, thus forcing South Africans to transit via Harare. There were no serious economic repercussions, but it would have a considerable impact. In his view the Government would give way only to pressure, and that really meant internal pressure. External pressure probably would not do the trick. Sir Patrick Moberly asked on whom this pressure should be exercised. Mr Dugard said that it should be exercised on that section of the community which was ambivalent. A cancellation of direct air links would impact on the business community, and force them to put pressure on the Government. Mr Chaskelson said that forcing the Government to rely on Harare would to some extent lessen the leverage which the SAG at the moment had on neighbouring countries.

3. Mr Dugard said that one reason why the US and the UK were associated in the popular mind with the SAG was the continuing veto of mandatory sanctions at the UN. We should perhaps shake the SAG out of its complacency by allowing a further limited mandatory sanction to be passed at the UN. The Secretary of State pointed out that there was already a mandatory ban on arms sales.

4. Mr Dugard suggested that more legitimacy needed to be given by foreign governments to the ANC. This was the way to divide Afrikanerdom: the Afrikaner business community would be particularly susceptible to influence. The moderate whites were already themselves in contact with the ANC. Mr Browde said that the image of the ANC suffered because nothing they said could be

quoted under the present law. Thus their views and intentions were never made clear. It was probable that given the chance Tambo would say that he was against violence, and this would do something to reduce the fears of the white community.

Mr Dugard added that at present there was no pressure on the ANC to give a clear view of what it was they wanted: if they were forced to take part in a responsible political process, they would be likely to become more reasonable.

5. The Secretary of State asked whether it was true that there was a strong Xhosa bias in the ANC. Mr Browde said that the ANC now had fairly general support, especially among the young. In his view 7 out of 10 blacks would probably vote for them.

6. Mr Goldstone said that he was visiting the detainees on a systematic basis, and had seen 80% of them in the last 3-4 weeks. He was very struck by the lack of political sophistication among those detained. They tended to be angry young people and the middle-class man in the street, and very ordinary people indeed. The Secretary of State asked why the Government was detaining such people. Mr Browde said that they were simply casting the net as wide as possible. They hoped that if these people were removed more moderate people would replace them. In fact the effect was often the opposite: with the influence of their leaders removed those left behind became if anything more disorderly.

7. The Secretary of State asked whether most of the detainees were taken from the cities. Mr Dugard said that it was just as bad in the rural districts and in the homelands. There were massive detentions all over the West and East Cape. The situation might be a little better in Natal because of Buthelezi.

8. Mr Goldstone said that his visits to the detainees enabled him to help their families a bit, but there was nothing he could do to get them released. The main virtue in what he was doing was that the police knew that he might appear at any moment and were somewhat constrained by this.

9. Mr Goldstone said that it might help if there was more contact between the British legal fraternity and their counterparts in South Africa. Mr Browde said that the US already gave some aid to legal associations in South Africa. The Secretary of State asked whether Britain could do more in this respect. Mr Browde said that there were some black legal organisations which could do with assistance especially in the East Cape: he mentioned the Democratic Lawyers Association. He said that he would provide details to the Embassy. Mr Dugard said that it was very important to give both sides faith in the legal system. It was interesting that the blacks did ~~not~~ quite frequent recourse to the courts, the UDF in particular.

10. The Secretary of State asked what view they took of the concept of independence for the homelands. Mr Dugard said that the SAG now realised that there was no prospect of international recognition of Bophuthatswana and the other homelands, though legally it could not be challenged. The idea of independence for KwaNdebele was absurd: they had no idea why the SAG was proceeding with it.