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DELMAS

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DIE STAAT teen:

PATRICK MABUYA BALEKA EN 21

ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST EN

ASSESSORE: MNR. W.F. KRÜGEL

PROF. W.A. JOUBERT

NAMENS DIE STAAT:

ADV. P.B. JACOBS

ADV. P. FICK

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NAMENS DIE VERDEDIGING:

ADV. A. CHASKALSON

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MNR. B.S.N. SKOSANA

KLAGTE:

(SIEN AKTE VAN BESKULDIGING)

PLEIT:

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COURT RESUMES ON 5 FEBRUARY 1987.BAVUMILE HERBERT VILAKAZI: d.s.s.

MNR JACOBS: Edele die argument wat die Staat opsit in verband met hierdie UDF Update is in die eerste instansie die doel waarvoor dit aangebied word op hierdie stadium is om die aard en die doelstelling van UDF, van sedert sy ontstaan, aan die getuie te stel. My submissie is dit is gebeure wat plaas gevind het, dit gaan oor wat die aard van die UDF was toe dit ontstaan het, dat daar fases was van om dit land, om die organisasies en die land onregeerbaar te maak en dan oor (10) te gaan daar vanaf om die volgende sal wees na People's Power toe en my submissie is dat dit is the aard wat UDF gehad het vanaf sy ontstaan en vir toe toelaating hiervan wil ek dan steun op Artikel 69(4)(c):

"By n vervolging weens n misdryf ingevolge hierdie..."

HOF: Van watter wet?

MNR JACOBS: Ekskuus Edele, dit is die Wet 74 van 1982, Die Veiligheidswet:

"By n vervolging weens n misdryf ingevolge hierdie wet of by n siviele verrigtinge wat uit die toepassing (20) van die bepaling van hierdie wet ontstaan is enige dokument, boek, rekord, pamflet of ander publikasie of geskrif -

(c) wat oënskynlik deur of namens n organisasie waarvan die beskuldigde of bedoelde party beweer word n amptenaar, beampte lid of aktiew ondersteuner te wees of te gewees het of deur of namens n persoon met n naam wat wesenlik met die van die beskuldigde of bedoelde party ooreenstem op te stel, aangehou, in stand gehou, gebruik, uitgegee of gepubliseer (30)

is/....

is en enige reproduksie van so 'n dokument, boek, rekord, pamflet of ander publikasie as getuienis teen beskuldigde of na gelang van die geval, bedoelde party of geding toelaatbaar as prima facie bewys van die inhoud van so 'n dokument."

My submitisie is dat hierdie dokument op die gesig daarvan is uitgegee deur 'n organisasie waarvan beskuldigde en 'n lid of 'n aktiewe ondersteuner is of was, soos die artikel dit hier het, of gewees het. Nou my submitisie is dat die UDF is nog steeds dieselfde organisasie wat nog steeds voort gaan en (10) daarom, en dit is 'n organisasie waaraan die beskuldigdes lede was of behoort het en/of nog behoort en dat daarom is dit toelaatbaar in hierdie opsig om ten minste dit te stel en in te handig om hierdie getuie geleentheid te gee om sê of die aard van hierdie organisasie wel is soos die Staat beweer en/of nie. Dit is the basis waarop die Staat aansoek doen dat hierdie dokument toegelaat word.

COURT: Mr Bizos?

MR BIZOS: As far as the section is concerned I do not want to advance any argument at this stage because Your Lordship(20) had the benefit of the arguments advanced by My Learned Friend Mr Chaskalson in the application for discharge stage. But I, the issue before Your Lordship is not that. The issue before Your Lordship is that this witness is sought to be cross-examined of what he knew or did not know the UDF to be at the time he is alleged to have been in conspiracy with the UDF and other co-conspirators belonging to it. That is the issue before Your Lordship and that is the issue upon which Your Lordship is called upon to allow the Prosecutor to cross-examine the witness. I can see no other basis upon which a document(30)

COURT: /.....

COURT: Well there are two issues of course. The first is the factual situation of the UDF itself and then secondly his knowledge of that factual situation. Now the State says well I want to cross-examine him on this aspect, his knowledge, and the factual situation, putting the factual situation to him and then asking him about his knowledge of it. Now this pamphlet would pertain to the factual situation if it is admissible.

MR BIZOS: Let me deal with the first issue first and try and persuade Your Lordship that it is not admissible on the first issue, and that is what the accused's knowledge of the or- (10) ganisation was at the time he is alleged to have been party to the conspiracy.

COURT: Well that he is entitled to cross-examine on.

MR BIZOS: He is entitled to cross-examine on and he is entitled to put material which was available at the time that the accused is alleged to have adhered to this conspiracy, at the time, and say well did you know about this and did you know about that.

COURT: Would he not be entitled if say for example Mr Chikane made a public statement, say a Press statement as President of the UDF, as Vice-President saying "Well the UDF has always (20) been, since its inception, a revolutionary organisation". Say for example we had that sort of Press statement would he not have been entitled to put that to the witness?

MR BIZOS: If Mr Chikane said that today My Lord?

COURT: Yes today.

MR BIZOS: I would submit certainly not My Lord because, may I just motivate that?

COURT: Yes.

MR BIZOS: Because then I would have been entitled, with respect, to call a hundred people who made extra-judicial (30) statements/....

statements to say that the UDF is a wonderful, peaceful organisation and Your Lordship would not allow that because statements made by people outside court, extra-judicial statements made not in the furtherance of a conspiracy but, otherwise if that is the basis then we can call all and sundry.

COURT: Well let me go along with you for the purposes of the argument on that one. What do you say of the section? Does the section not explicitly say that the document, and it does not give a time limit, the document is admissible?

MR BIZOS: Well the document is admissible in terms of the (10) section if it is relevant to one of the issues before Your Lordship. The issues are defined by the allegation in the indictment and the accused's plea. They say that during the period of the indictment we believed this, that or the other to be the position. The fact that a document purporting to have been issued by the organisation has an historical account of how the person wrote, or what a person thought the position is again is not admissible because it is an extra-judicial statement not in furtherance of the conspiracy that is charged before Your Lordship. (20)

COURT: No, no the section says "as prima facie proof of the facts set out therein". This means that if you read this document and it says that "We threw stones on 30 January 1950" it is prima facie proof of that fact.

MR BIZOS: Well My Lord with respect, let me ...

COURT: That is what the section says.

MR BIZOS: My Lord the section says that, the section facilitates the production, the section facilitates the production.

COURT: Plus it affords proof.

MR BIZOS: It affords proof of admissible facts, it affords (30) proof/....

proof of admissible facts.

COURT: It is admissible as proof of certain things.

MR BIZOS: My Lord let me test it, let me test it for Your Lordship. Can we produce a document with the UDF logo on in order to say that Mr X, I do not want to, the responsible person for the administration of the Vaal Triangle was completely responsible for this and we hand it and Your Lordship says this is prima facie proof of the correctness of the contents of the statement because if that is so then Your Lordship is receiving extra-judicial statements in relation to (10) historical matter which ...

COURT: Is that not exactly what the section says?

MR BIZOS: No the section says that the State is assisted by producing documents, which is a procedural matter. It does not do away with the other aspects of the law of evidence.

COURT: But what does it mean to say "as prima facie proof of the contents thereof"?

MR BIZOS: If it is in furtherance of the conspiracy and relevant to the issues ...

COURT: Well it would be very relevant, never mind whether (20) it is in furtherance, that is something you add to the section. If it is relevant now would it not be relevant as statements by the UDF saying this and this and this we had in mind? That surely would be relevant in the case.

MR BIZOS: In 1986 an unnamed person says something about the Vaal Triangle ...

COURT: Yes that of course is argument. One can say well the accused had nothing to do with it but does it mean it is not relevant?

MR BIZOS: No My Lord it is not admissible because it is (30)
an/....

an extra-judicial statement ...

COURT: It would be inadmissible Mr Bizos had it not been for the section, that is the difficulty.

MR BIZOS: Well I would submit, with the greatest respect, that that interpretation of the section, it was done almost in jest in the BREY TAN, FFRENCH BEYTAG case where counsel for the defence there read from Setchaba a series of swear words against the then Prime Minister and put it in on the basis well this is what the Prime Minister of South Africa is and I rely for this on this statement of fact. Now Your Lordship (10) is opening the door for the production of documents with, which were not produced within the period that the conspiracy is alleged to have taken place, to be placed before Your Lordship in relation to a public debate on the interpretation of the recent history of South Africa. If that is what the section means then it is open to the accused to put in hundreds, if not thousands, of document to the contrary effect.

COURT: What portion of your argument on the discharge dealt with this section? Could you just give me the pages so that I can get it out? (20)

MR BIZOS: I think we have a copy in our, there is a black file. I will just send for it and we

COURT: Well I will take a short adjournment and then you can let me know when you are ready. I want to be addressed on this section.

COURT ADJOURNS. COURT RESUMES.

MR BIZOS: My Lord the argument is contained on page 26 of the Heads of Argument.

COURT: Could you read it to me please?

MR BIZOS: Yes. Your Lordship will recall it, it was that (30)
the/....

the submission made that the UDF was not an organisation for the purposes of the Act. Your Lordship will recall the argument and Your Lordship has already ruled on that. If Your Lordship still wants me to read it but I think ...

COURT: No if that is the point then ...

MR BIZOS: That is the point in relation to the section. In relation to the section yes. But let me assume, with respect, that Your Lordship - and I am not calling upon Your Lordship for the purposes of this argument to review Your Lordship's judgment in that regard. What I am saying though is that (10) this document is not admissible in spite of the section and let me try and illustrate it. Generally speaking in a conspiracy trial Your Lordship would hear a person giving evidence of executive statements made by the conspirators and they would be admissible. Let us assume that a witness was tendered, and what the section I submit does is really to facilitate the State not to have to call witnesses in relation to these documents. But let us assume a witness was tendered to tell Your Lordship that at a meeting of the UDF in November 1986, not the accused because that would be an admission by him, (20) but Mr X in giving a review of what happened in 1984 said the following, would Your Lordship receive that evidence? I submit not. And this is what this document is. So that the mere fact that there is a procedural assistance offered to the State does not render the document admissible if it would be inadmissible on other grounds.

COURT: Had the witness come to tell the Court that one of the accused said this and this then it would have been admissible, is it not?

MR BIZOS: As an admission.

(30)

COURT: /....

COURT: As an admission.

MR BIZOS: But the rule is that extra-judicial admissions made by accused persons are admissible and one of the recognised exceptions of the hearsay rule.

COURT: Now is it not extended in this respect that the accused is equated with the organisation prima facie to which he is alleged to have belonged?

MR BIZOS: No My Lord let me remind Your Lordship of the leading case on the narrative statements of the GANG(?) case that Your Lordship will recall, that the name of the co- (10) conspirator was mentioned in the motor car after a particular crime had been committed.

COURT: I have no difficulty with your submission Mr Bizos on the common law and in general. I have a difficulty with the interpretation of the Act.

MR BIZOS: No but My Lord ...

COURT: Whether the Act seems to me to extend the field of admissible documents.

MR BIZOS: No My Lord, with respect, it enables the State procedurally to place documents before Your Lordship. (20)

COURT: Plus, plus. The documents plus it gives the Court proof prima facie of the contents thereof.

MR BIZOS: Of the contents thereof. But the section does not go further to say that evidence which would otherwise have been inadmissible is rendered admissible. It is only a procedural crutch to benefit the State. It does not alter the fundamental law of evidence.

COURT: But it does because the law of evidence was you could not put in these documents, under no circumstances. Now in terms of the Act you can. (30)

MR BIZOS:/.....

MR BIZOS: No. My Lord you could not put in, you could not put in the documents without calling a witness. What the section says let us assist you so that you do not have to call a witness in order to prove the document. It does not go further and say that you will be thereby entitled to place before the Court inadmissible evidence. Let me test it in another way, with the greatest respect. Let us assume, because it is by...

COURT: But what document can you then place before the Court?

MR BIZOS: A document which is relevant on the issues as raised. May I give Your Lordship another example to why (10) this is not a fundamental departure of the law of evidence. Let us assume, and I want to assure Your Lordship that that is not the case, well let us assume that the State had a document which said that accused no. 23 in this case had a list of previous convictions and this was issued by the UDF, that accused no. 23 had a list of previous convictions of which he was very proud and this was it. Now I will leave out the very proud because it may make it admissible in order to rebut a particular defence or something like that, but he had a list of previous convictions and could the State stand up and (20) say because it has got the UDF logo on and it is in this document we hand in this document. Then Your Lordship would have to receive it merely because the State has decided if that is a correct interpretation of the section the State can put in anything it likes irrespective of the law of evidence. Your Lordship would not allow that and would not interpret the section in that way. How can it be said that it departs from the law of evidence altogether? Surely that it is subject to the law of evidence and the law of evidence is, with the greatest respect, that you cannot put to a witness a document (30) which/....

which is said to have been produced some two years after his detention without attempting to show that he had something to do with it if he was continuing the conspiracy from the cells, and that is the purpose of the, then it might be admissible. But Your Lordship cannot open the door, cannot open the door. Could we put, and I think there is some suggestion of it in some newspaper cutting which was put, that the Minister of Law and Order is responsible for this and Mrs Helen Suzman said this in Parliament?

COURT: No you would not be able to do that if it is in (10) favour of the accused, only if it is against the accused in terms of the section.

MR BIZOS: Well surely, surely, well we advance the argument in relation to that but if we put the UDF logo on a document such as that why should Your Lordship be able to reject it, it would be prima facie proof of its contents.

COURT: Well maybe I will have to permit you to do that.

MR BIZOS: Well, but I submit that the section has not done away with ...

COURT: Now if that is so on what basis, what is the use (20) of the section then, placing a document before Court doing what with the contents?

MR BIZOS: No My Lord ...

COURT: How does the section help anybody then?

MR BIZOS: No it does help somebody, it does help somebody because if read as a whole, if an organisation has minutes, documents, which were produced during the period that the conspiracy is alleged to have taken place or the crime has been committed, and they purport to be minutes or a magazine or a document then, and the, it helps the correspondence, the (30)

correspondence/...

correspondence that Mr Molefe wrote and we do not ...

COURT: No but there is a distinction. One can place a document before the Court to show that document was written, say for example to show that a certain line of propaganda was followed without proof of the correctness of the propaganda. That is the one possibility and then you say well then it is merely placed before the Court, full stop, and you can do it under the section. But then why then add the words "as proof of the contents"?

MR BIZOS: Yes but My Lord, because it was in order to (10) assist the State that if it had found the minutes of the UDF at the UDF offices then it produces them that these are the minutes and prima facie this is what the minutes contain. In the common law ...

COURT: That is the one point. The next point is that if the minutes say we held a meeting on 15 August it is prima facie proof of the fact that they held a meeting on 15 August.

MR BIZOS: This may be My Lord, I ...

COURT: Now if that is correct as far as the minutes is concerned why would it be incorrect as far as UDF Update is concerned?(20)

MR BIZOS: No, because it is outside the period of the conspiracy.

COURT: Right, now that is step two. Step two is then does the section limit the document to a certain period?

MR BIZOS: It must be subject to the general law of evidence, as I have tried to illustrate with the previous convictions.

COURT: If the, why should the statement be limited to the period of the conspiracy if the statement itself pertains to the period of the conspiracy? -- Because it is not in furtherance of the conspiracy but an historical account on (30)

an/....

an ex post facto given by a person who is not before Your Lordship. What is the State's answer on the previous convictions? Would Your Lordship receive it for the purpose of showing that this person is a no good, if I may use the expression, and they say no never mind about the laws of evidence here is a UDF document.

COURT: No it would be proof of the contents thereof but there is a different section in the Criminal Procedure Act which says I may not receive it.

MR BIZOS: As part of the law of evidence. (10)

COURT: Well it may or may not be but I do not think your example fits the case entirely.

MR BIZOS: But we can only test it as to whether the section abrogates the rules of evidence as a whole and entitles the State to hand in any document which bears the UDF logo without any further ado. And if that is so, and that is the submission of the State, then the example that I have given Your ...

COURT: Provided it is relevant of course.

MR BIZOS: Provided ...

COURT: It is relevant. (20)

MR BIZOS: On the State's submission relevance is not an issue because it says the section gives us the right to do this and what I say that it is always subject to the general law of evidence. What the section does is it assists the State, that they do not have to call a witness to say "That I was the secretary of the meeting, I took these minutes and these are the minutes". But that is all that the State is assisted by and then if this document purporting to be a minute is produced then it is prima facie proof of the contents. But I would submit that if someone came along, or if the State (30) came/....

came along with what purported to be a minute of a meeting two years after the issue that Your lordship is trying and there were expressions of opinion in that document it would be inadmissible because generally speaking, generally speaking, let me try and generalise that if Your Lordship could not hear a witness on the issue Your Lordship cannot receive a document on the issue.

COURT: Well let me put it to you this way. If there is evidence that Mr Chikane, for example, let us take somebody, said on let us say the middle of 1985 that we did this and (10) this for that and that purpose it would have been admissible.

MR BIZOS: No My Lord.

COURT: Well having been a, if he was a Vice-President of the UDF and an alleged co-conspirator.

MR BIZOS: Well My Lord I join issue with respect.

COURT: Not generally but if he had done it in a UDF document.

MR BIZOS: It depends My Lord ...

COURT: In terms of the section.

MR BIZOS: Yes, it depends what Mr Chikane said and I will again refer Your Lordship to the cases. Assume ... (20)

COURT: No I am with you Mr Bizos, that under the general law of evidence one can only use executive statements of co-conspirators. If it is not an executive statement, that is a statement made in furtherance of the conspiracy, it is not admissible. That is the end of the story. The question is whether this section takes the matter further. It would seem on the face of the section that it does.

MR BIZOS: No My Lord let me, once we are ad idem on what the cases say, let me illustrate that the section cannot mean that by referring to the common law position. In the GANG (30) case/...

case, assume for a moment that one of the participants in the gang was not before the Court, was not before the Court, and he issued a statement that accused no. 1, 2 and 3 being tried in Pretoria and I committed this murder, it would not be admissible. It would not be admissible, the cases are crisp and clear on that.

COURT: Yes that we have agreed on Mr Bizos.

MR BIZOS: But now My Lord, but now, now what the State says is that that law of evidence is abrogated by this section.

COURT: Only in respect of organisations to which an accused(10) is alleged to belong.

MR BIZOS: Well My Lord, let us assume that in that case that I have referred to, the hypothetical case I have referred to, they say yes we were a member of this gang but we were only to rob and not to murder. Assume that that was their defence. The co-conspirator's extra-judicial statement would not have been admissible. Now what the State says is that what the section means is although if we had a witness the evidence would have been inadmissible because of the section, because it is a document and it is one stage further removed and (20) you cannot cross-examine it it is now admissible, and the section does not mean that, it cannot mean that. Because it is only a procedural, it is only a procedural section and not a section altering the law of evidence except to the limited extent provided there. So that questions of relevancy, questions of, other questions of admissibility have got to be considered and it cannot be taken on the ex facie position, and if a witness could not be called to depose to those facts a document cannot be produced to prove them prima facie. That is the submission. (30)

JUDGMENT/....

Pages 8678 - 8680

(Awaiting return of revised judgment)

HOF: Mnr Jacobs die suggestie is dat as u dit bewysstuk nommers wil gee dat ons dan, waar ons die verdedigingsdokumente DA genoem het, dat ons dit dan CA noem. Dit is ongeveer waar dit in die saak in pas.

MNR JACOBS: Dit is reg.

HOF: Die dokument sal dan wees CA1.

FURTHER CROSS-EXAMINATION BY MR JACOBS: Have you got the document with you Mr Vilakazi? -- Yes I have got it.

Then I want you to have a look at the middle part of it, that Update - Special Focus, Three Years of United Action. (10) Have you got it. It is stated here that:

"The UDF has achieved a great deal in its three year history and here we assess our achievements and analyse the current situation to point the way forward."

And then under "Introduction" in the middle of the paragraph:

"The launch of the UDF on 20 August 1983 marked a dramatic leap forward in the national liberation struggle. It brought over 500 grass roots organisations together in a broad front against apartheid."

Do you agree that at the time of its launch it was launched (20) as a national liberation struggle?

COURT: It was not launched as a national liberation struggle, it was a leap forward in the national liberatino struggle. That is what the document says.

MR JACOBS: In the national liberation struggle and as such a part of the national liberation struggle? Do you agree to that? -- Well I do agree with that yes.

I beg your pardon? -- I do agree with that.

Yes? And then let us go on:

"When we launched the UDF our aims were to campaign (30)
for/....

for the massive rejection of the Tricameral Parliament and Black Local Authorities, to build unity amongst the oppressed people, to set up organisations where none existed and build existing organisations into more powerful weapons in the struggle."

Do you agree that those were the aims of the UDF? -- Yes I do agree with them as the aims on the face of the document.

COURT: No, you are not asked to agree that the document says this. Just take it for granted that what counsel reads to you is what is set out in the document. You are asked to agree (10) with the contents. Do you go along with the contents? -- Well then we will have to, my difficulty is the usage of certain words and the interpretation thereof.

Then you must say "I disagree with the use of this word, I would prefer that word". If you go along you say "I agree". If you do not but go along to a certain extent you say "I agree to a certain extent" and then that can be debated. -- That is so. I do agree with the points under the aims of the United Democratic Front as seen by this person who wrote out this document but normally I would not say I see it as one of the (20) aims to build organisations into a more powerful weapon on the struggle but I would see, the most appropriate word I would have used personally would have been a powerful force in the struggle.

MR JACOBS: What is wrong with, what do you find wrong in the wording? -- No it is just I am unfamiliar with that wording.

"Into a more powerful weapon in the struggle"? -- That is so.

What is not acceptable to you about that? -- I am unfamiliar with it. I would have used another word to (30) interpret/...

interpret it and for me to be able to say there is something wrong with it then it means that portion will have to be debated by myself and the author of this document in order to understand what was his intention in putting it that way.

Do you agree that if the author of this paper, the UDF was using these words because it is their aim, it was the aim of the UDF in 1983 that it is force will be part of achieving their aim by way of the organisations, then you cannot dispute it?

COURT: What exactly is the question? I am not entirely (10)
with you Mr Jacobs.

MR JACOBS: If it is meant by this "powerful weapon in the struggle" that it is more than only peaceful, a peaceful struggle, then you cannot dispute if the UDF is adhering to that aim, that to use the organisations as a powerful weapon in the struggle?

COURT: Well I still do not understand what you are putting to the witness. Are you putting to the witness that your interpretation of the words "more powerful weapons in the struggle" is one which connotes violence? (20)

MR JACOBS: Yes sir.

COURT: Well then you put it directly to the witness and if he disagrees he disagrees, and we can go on from there.

MR JACOBS: I put it to you that what is conveyed here, that powerful weapons in the struggle connotes violence? -- I do not necessarily see it as such.

But it may be interpreted like that by anybody else reading it? -- The thing is I do not know what is the, what was in the first place the intention of this document and who drew it and whether this was some kind of research or looking (30)

back/...

back, you know an assessment document on the UDF by the UDF itself, on behalf of the UDF by who. I do not know that. Now....

COURT: Well it seems that this docuemnt says "we assess our achievements and analyse the current situation to point the way forward". That is what the heading says. -- Also is this a draft document that was produced or is it the end product of what the assessment was to be?

It would appear to be a publication, so it is not a draft. (10)

MR JACOBS: Have you got anything to say then on .. -- No my contention is just that, is still that I cannot, there is nothing that guarantees me that this is an end product of the publication itself.

MR BIZOS: My Lord as this is going to be apparently a long process could we have a ruling as to whether My Learned Friend can ask the witness as to how others might interpret this document?

MNR JACOBS: Edele is dit nie ...

HOF: Wil u die getuie vra, want dis tog sekerlik wat die Hof moet beslis? Oor wat die dokument beteken en al sou hy nou vir ons sê dat hy die volgended betekenis daaraan heg en as hy dan nog n stap verder gaan en sê hy dink ander mense sou die volgende betekenis daaraan heg hoe is dit relevant? Dis tog ons wat die beslissing moet vra. (20)

MNR JACOBS: Ek sal daarby hou.

HOF: Dis die een ding. Wat u wel aan hom kan stel is u sê u heg die volgende betekenis daaraan en wat sê hy daarvan, persoonlik. Dit kan u doen. As u heeltemal van die merk af is dan sal ons u seker terugroep. (30)

MR JACOBS: /....

MR JACOBS: So I put to you what is put here in this article here is the aims of the UDF at the launch and it was, and according to that my interpretation is that what is said here is that violence is part of the struggle. Do you agree? -- No I do not see it to that extent as violence being part of the struggle.

"And these goals have been carried out with a level of success few envisaged three years ago. The mass action since 1983 has completely wrecked the government's plans and have thrown the Nationalists into a crisis of (10) enormous proportions."

And I put it to you, do you agree with that statement? -- Well I would not be in a position to say what is the position in 1986 as it were because as it is this document refers in that paragraph to the present situation and being in 1986, because it says here "Since 1983", this is now three years ago, this is the situation now. That is three years later which is 1986 and by which time I was incarcerated.

And I put it to you that the mass actions applied, that is the meaning that I put it, since 1983 that the part of (20) the Vaal and all the unrest in the country since 1983 was part and parcel of the violence envisaged and foreseen by UDF and the organisations affiliated to UDF? -- Well that allegation is incorrect.

And I put it to you the mass action was the first phase in the aims of the UDF to make the country ungovernable? -- That is also not true.

And it is, if you will have a look in the middle of this page there is a statement with the heading "From Ungovernability to People's Power". (30)

COURT:/.....

COURT: I am sorry, where are you now?

MR JACOBS: The middle of ...

COURT: Page, the second page of that document?

MR JACOBS: The second page ...

COURT: What is your heading?

MR JACOBS: "From Ungovernability to People's Power".

COURT: Yes, are you now going on, is that the next section you are dealing with?

MR JACOBS: Yes.

COURT: I am asking you because I am numbering the portions (10) that you refer to to shorten my notes. You are referring to which part now?

MR JACOBS: "From Ungovernability to People's Power". And I put it to you that this "From Ungovernability to People's Power" is also part of the plan of the UDF? -- Well I cannot even understand the concept there. I do not understand what is said by that.

Okay:

"In many areas apartheid functionaries like Bantustan Chiefs and town councillors have resigned. In their (20) place civic, youth and student congresses have formed organs of people's power to take control of local administration."

Would you accept that that is part of making it ungovernable by the government authorities? -- Ungovernable by the authorities?

No will you accept that what I just read to you is part of the concept of ungovernability by the government institutions like Black Local Authorities as it is said here, or Bantustans, and that was taken over by the people? (30)

COURT:/....

COURT: Now this is as at 1986, as at 1986, end 1986. This witness was in jail for a long time by that time. How can you ask him to comment on this?

MR JACOBS: I will put it to you in general then that it was part of the UDF and its affiliates policy to make the resident areas in, the Black resident areas over the country, and even in the Vaal ungovernable by having the council system destroyed? -- My contention is that the activities of the Vaal Civic Association and the other organisations affiliated to the United Democratic Front was to primarily oppose the Koornhof Bills (10) and the new constitution proposals and in as far as the events in the Vaal complex are concerned, as it is put here, I would say that in actual fact what I am saying is that the activities of the Vaal complex as they were in September 1984 were born out of peaceful protest by the residents against the rental increases and against the councillors themselves because of the number of problems they had with that particular structure in the Vaal complex. Hence because of this the residents decided on embarking on a march having called onto the councillors to resign and embarking on the march to meet with the govern- (20) ment structure most accessible to them, that is the Development Board, and to discuss this issue of the councillors. With the thought, the very clear thought, that in case the councillors resign the Development Board was there as a government structure in the Vaal complex to take over administration of the township and as such I did not see any element of ungovernability coming in there, and while that would be the situation the people were prepared to put up their demands for the kind of structure that they would like to see to be of existence in the Vaal complex. (30)

Can/....

Can you dispute that it was part of the UDF's policy to make the country ungovernable? -- I have never heard of any decision being taken by the United Democratic Front at any level to have the country ungovernable.

Would you agree that to make the country ungovernable it can only be done by violence? -- Well I am not an expert on making countries ungovernable so I do not know if I can limit my answer to violence or non-violence or hyper-violence levels.

But you did tell the Court of the peaceful part of it, you are an expert on the peaceful part of it? -- Yes I know (10) the United Democratic Front and the Vaal Civic Association were bent on resolving the problems of the people in the country and in the Vaal complex through peaceful means and that is what we have been doing and that is what we have done.

And if the UDF states in this document that there is a phase in the struggle to go now from ungovernability to people's power what do you say to that? -- Well I would not understand the UDF to be in a position to say that there will be a situation where there is ungovernability but if I can take it from there I would understand it, if I am pushing (20) to it I would understand it that to move from a situation that will not be there, that is a situation of ungovernability in as far as I know the UDF and in as far as I saw activities in the Vaal complex there will not be ungovernability but there will be people's power.

And this document, the UDF Update, is a, is it a monthly, it is monthly issued by the UDF and distributed among the people, is that correct? -- I have never seen this since my arrest. I have never ever seen it even before I was arrested, I do not know when did it come out. (30)

Do/....

Do you know anything about the UDF Update or plans for it to be issued? -- No, until 1984 to my arrest there was no UDF Update. To my knowledge at least.

Can you dispute that it was the UDF's original plan to use affiliates to make the country ungovernable, even without the affiliates knowing it? -- Even without the affiliates knowing it?

I beg your pardon? -- Even without the affiliates knowing it?

Yes I just want to, by using affiliates? -- I do not (10) see such a situation ever coming into being because the UDF itself is the affiliates. So I cannot see the UDF as a separate entity using the affiliates, even without the affiliates knowing it.

I just want to refer you to a few other documents.

COURT: Are you leaving this document, can we put it away now?

MR JACOBS: Yes. I want you to have a look at EXHIBIT C1. There are two documents. The one is a written one and the other one is a typed version it seems of the same document. I think it will be easier to read from the typed one, it is (20) the second document. And the heading of that document "The United Front Why do we form it and how appropriate is it today". Have you got the document in front of you? -- I have got both documents in front of me.

COURT: Look at the second one, the typewritten one. -- That is so.

MR JACOBS: And I will start from the ...

MR BIZOS: My Lord our quick look at it it does not appear that the two documents are the same.

COURT: Which one do you choose Mr Jacobs? (30)

MR JACOBS: /....

MR JACOBS: Well I will refer to both of them where it is the same because there are parts that are the same.

COURT: Well are you now referring ...

MR JACOBS: I will use the second document, the typed one, it will be easier sir:

"Now at this stage of our struggle we need to reflect on the past year or so of activity and plan ahead. This is also an opportunity to clear up misunderstandings and build greater cohesiveness amongst all of us, not only within the Transvaal but throughout the country. This (10) presents us with an immediate challenge of not only focussing our attention towards the building of organisations but also to draw together in a clear and united action all those forces engaged in the struggle for democracy in South Africa. In attempting to discuss the role of the future of the UDF it is important to recall some of the fundamentals that guide us in our work. Our objective is to dismantle apartheid and replace it with a more just and democratic system as in the Freedom Charter for those of us who subscribe to it." (20)

Will you agree that that is the object of the UDF, to dismantle apartheid and replace it with a democratic system?

-- The people are united in the United Democratic Front to oppose apartheid and with opposition of apartheid we would have a most just and democratic system, I agree with that.

Do you agree that this document, this phrase that I read out to you stated the objective of the UDF as I have read it out to you? -- That is how I understand it but this does not mean necessarily that I can take it that this is a UDF document. (30)

So/....

So are you saying that this is not a UDF document? -- It does not say it is produced by the United Democratic Front or has somebody been commissioned by the UDF to do this kind of message or to do this official planning, you know to come up with thought provoking issues with regard to the future of the United Democratic Front.

Yes my question is an easy one. Do you say that this is not a United Democratic Front document? -- My answer is I do not know.

And according to this document or this part that I read(10) it is an aim of the UDF, according to this document, to draw together in a clear and united action all the forces engaged in the struggle for democracy in South Africa. Do you agree that that is the stance taken by the UDF? -- Well that is a position taken by the UDF, yes.

And then the second part that I want to read to you is paragraph 3.1. Firstly it is through the actions and work of, it is a question that is put:

"Firstly is it through the actions and work of the few like ourselves or the many, the masses. Our view the (20) masses are the makers of history. It is they who must become the active participants in the struggle. Without this there cannot be successful victory. It therefore becomes imperative to evaluate or organisational activities in such a way that we draw the maximum participation of the broad masses through mobilisation, education and by stating in clear terms the need for unity, the need to reject attempts by the enemy to divid us on racial lines."

Do you agree that that is also an aim of the UDF? -- Well (30)

I/....

I agree that it is the aim of the UDF to unite people and not to allow any divisions amongst the people.

And do you agree, according to this document, and the part just read, that ...

COURT: Well you need not ask him whether he agrees that it is in the document, we know it is in the document. You can ask him whether he agrees with the sentiments expressed in the document or the statement made that this is the objective as set out in the document.

MR JACOBS: Now do you agree to the objective that it is (10) the masses who must make history and liberate, participate in the struggle for a victory? -- I agree with that sentiment.

And a victory against the enemy, and do you agree that the State is your enemy? -- I have always said in this court repeatedly that my enemy is apartheid because apartheid is the enemy of the people of South Africa.

And apartheid includes the State and all State institutions? -- I will not equate apartheid with the State because the State itself is an institution beyond any party politicking. Whilst apartheid is being created by parties participating in (20) the Parliament itself.

And do you say that the government, being the people, being the institution that is upholding apartheid, it is not part of apartheid or what do you say? -- What is that?

The government, as the institution upholding apartheid? -- The government as it is today, the government of the Nationalist party and that is the government that upholds apartheid.

That? -- That upholds apartheid.

Yes. But are they the enemy? -- Apartheid is the enemy. (30)

Now/....

Now how do you fight apartheid then without the government being part of it? -- By continuously talking to the members of the Nationalist Party to open their membership to every South African citizen, to have among their ranks Black people, Coloured people, Indian people, in order that the party will be itself representative of the sentiments of the people of South Africa and will contest seats in Parliament equally with other representative parties which want to be in the government, so that any of these parties winning will be a position to be proud and say we are represented by the (10) the people of South Africa in that government because those people are elected by every person in the country as a citizen exercising his full right as a citizen to elect a person to Parliament to represent him.

Okay, we will go on, I will come back to that, I will bring you other instances and see if you are correct. I want you to have a look at EXHIBIT C6. This is a document, "UDF, Border Extraordinary Regional General Council Meeting, Rhodes University, June 10, 1984" and it is the second paper "Comrade Mkenke Stofile". Do you know that Stofile is a member (20) of the executive of UDF in the Border Region? -- I know that there is a Reverend Stofile in the UDF, Border.

And I would like to read you the second paragraph here: "Our fundamental starting point I think is to have a clear perception of the international nature of the struggle, although I do not intend going into that today. When we have seen that it becomes clearer to us that we are caught up in the classic situation of the exploiter versus the exploited, of the bourgeois versus the proletariat, of the capitalist versus the worker. (30)

These/....

These two are therefore the two major actors in the situation. It is true that we have other sub-classes like the peasants, the petty bourgeois, artisans, handycraftsmen and also intelligentsia, professional workers, cultural workers, office workers, students and other employees but all these groups fall within two basic structures, into two basic class structures, capitalist and workers, or the bourgeois and the proletariat."

According to this document do you still agree that the (10)
struggle is only against apartheid or is it against apartheid
and the government as the capitalist class in this country?

COURT: Why do you say according to this document? We can
read the document for ourselves. You must ask him do you agree
with the sentiments expressed by this gentleman in this paper.

MR JACOBS: Do you agree to the sentiments expressed by this
gentleman in the paper?

COURT: Do you understand the philosophy? -- I need to take
my time to understand this really.

It is often very difficult to understand this philo- (20)
sophy. Where is this leading us Mr Jacobs?

MR JACOBS: Sir I am going to ...

COURT: Why do you not put to the witness what you want to put
to him? If you want to put to him this is a communist document
then put it to him and say well this is communist leaning in
the UDF and he can dispute it or he can agree and we can go.
But reading long paragraphs does not bring us anywhere.

MR JACOBS: Otherwise he will say that he has not read the
document, he cannot say sir. I am giving him the chance to
have the document in front of him and the part that I want (30)

him/....

him to comment on. -- As this is a paper which to a great extent I do not understand and unfortunately I also did not get an opportunity to debate this with an author or with anybody who had been in touch with the author to be able to comment on it because I guess as it is it was a paper delivered by this person, Kenke Stofile, and being the paper it was subject to debate around it, around every paragraph, every sentence to the effect that people would be agreeable and disagree right from the beginning up to the end. And also there would also be calls for clarity, now saying now what is meant by this (10) line and for people to be able to continue debating it. Now if that opportunity can be given me of some of the lines being cleared then I will be able to form an opinion.

Can I read to you another paragraph:

"So the youth is an actor in the liberation ..."

COURT: This is the third last paragraph?

MR JACOBS: Third last paragraph:

"So the youth is an actor in the liberation struggle, not as a distinct class but as a member of the working class. This does not mean that the young worker or (20) young student or young intelligentsia is obsolete to the struggle. By no means, we will come to that later. The nature of our struggle in the country is also basically twofold. The main content of the present stage is the national liberation of the most oppressed group, the Black people. This national character of the struggle must therefore dominate our approach. The second respect is the complete economic emancipation of the oppressed."

Do you agree that that is part of the national liberation (30) struggle/....

struggle of the UDF in which the UDF also participates? -- I do not necessarily agree with that because these are the views of one man being put on paper here.

And then on page ... -- For instance my contention is that it is true that the youth is an actor in the liberation struggle but I see the liberation struggle in the country being a liberation struggle for all people, without class division. Apartheid divides us from one another and apartheid affects the lives of everybody in the country. That is why I say apartheid is the enemy. (10)

Now if it is said that in this liberation struggle that the people in the UDF are busy with a revolution or that they are revolutionaries in that struggle would you agree that to be a revolution it can only be violent? -- Only through violence?

If you are busy with a revolution that the freedom struggle or the national liberation struggle is part of a revolution, according to the scene in UDF, will you say that is violent? -- Well I have always understood that the revolution as used from time to time by any speaker within the context or (20) within the membership of the United Democratic Front is being, what is being referred to there is rapid change, total rapid change and that is how I see it, and I do not see with that understanding that I have and with the kind of understanding of the United Democratic Front as a peaceful organisation and with nothing that has made me change my mind or my view with regard to the position of the United Democratic Front can I just simply believe that this revolution can be done by violence.

You will not say that, you admit then that part of the United Democratic Front is a revolution but not a violent (30)

revolution/...

revolution? Is that what you say? -- I am not saying part of it. I am saying the United Democratic Front is there for change the use of the word "revolution" by some people who are members of affiliates of the United Democratic Front, I always understood them to be meaning rapid change. That is all, and seeing that these people are members of particular organisations which are affiliates I take it they are referring to peaceful rapid, total change, because of the nature of the organisations themselves.

And how did you want to achieve the change then, the (10) rapid change? -- By response from those in authority to the problems faced up by the people in the country.

And not by the masses? -- The masses cannot solve these problems, it is those in authority. The masses can only protest against those in authority and bring these problems to the door of the authorities so that the authorities can do something about it.

Will you have a look at page 2, have you got it in front of you?

"But we are revolutionaries and not nationalists. We (20) accept fully the idea of unity in action between all the oppressed groups as being fundamental to the advancement of our liberation struggle. How could we forget the proud record of such patriots and comrades as Basil February, Abduruman, Ghandi, Katrada, Fisher, Furst, Agate and many others. Our struggle being for non-racial democratic South African we cannot delay our non-racial approach but we must not be ambiguous on the question of the primary role of the most oppressed African masses but of course those belonging to the other oppressed Black groups (30)

and/....

and the white revolutionaries who show themselves ready to make common cause with our aspiration must be fully integrated in the basis of individual equality. There can be no second or third class participation in the democratic movement of our liberation. It is not for the enemy that we reserve our assertiveness and our justified sense of grievance. In the vanguard of this struggle is the working class. That cherished aim and purpose is to destroy the exploiting monster that is capitalism. The workers have nothing to lose but (10) their chains. They stand to gain the whole world, the means of production and political power. With these they will earn the right to enjoy the achievements of material and spiritual culture."

Do you agree that the meaning out of this is that the so-called revolution must be a violent revolution to destroy the enemy and the exploited monster, exploiting monster? -- There is nowhere that it gives me a hint of any violence being advocated.

But for all, the last paragraph: (20)

"But for all these to work together for the same goal, liberation, there must be a directing organ. The struggle has to be won all round political mobilisation. This includes education and agitational work throughout the country, to come with a sophisticated torrent of misleading propaganda of the enemy. The enemy is as aware as we are that the side that wins the allegiance of the people wins the struggle. It is therefore all the more vital that the revolutionary leadership is nationwide to ensure that when victory comes it is not a hollow one.(30)

The/....

The masses must be brought to power at the head of which stands an organised political leadership."

D.514 Do you agree that this revolution is for the gaining of people's power? -- I do not see mention of people's power. Can I have the question again?

I beg your pardon? -- I do not see mention of people's power here. On the line that you have been reading.

COURT: Mr Jacobs you have now for some time been putting this document to this witness while I have been wondering whether it serves any purpose. It does not seem to be official so (10) you are putting to this witness a paper by somebody who is an official of the UDF Border Region. You can ask his opinion on this if you want to, in the sense does he agree with the sentiments expressed, but where does it take us?

MR JACOBS: I will leave it at that sir. I am just going to deal with one more point. I am putting it to you that according to UDF, I put it to you that it is the object and the, of the UDF to bring this government and the State, generally depicted as apartheid, to a fall and to obtain a government according to the Freedom Charter and to the will of the (20) masses of the country. What do you say to that? -- I deny that allegation because myself here I have given my understanding of what apartheid is and how apartheid can be done away with, at, being questioned by the State Advocate himself, and thirdly there are many organisations who affiliated within the United Democratic Front but who do not subscribe to the Freedom Charter itself.

COURT: Well many, what was the position of the VCA? Was it discussed or not? -- At VCA we had not adopted it at the time of our arrest. So I would not know what the position is now. (30)

So/...

So it was not discussed at the time? -- No it was not discussed.

MR JACOBS: And then there is only one point that I could not get reference yesterday. I found it overnight, that is the last point that I said I would like to put to you. I just want you to have a look at, alright not a look I will read to you what was put to Masenya when he gave evidence, by the defence and I would like you to have a look, or I will read from page 705, that is Volume 14, and that refers to the meeting of 26 August 1984. Now this is what was put to him: (10)

"Now I am going to put to you that the reason why this woman called, blew the whistle so to speak, that you were out of order was because she asked 'are you prepared before you speak again are you prepared to repudiate the councillors and the way in which they have gone about this'. I will put it more directly, that she was concerned that you should not be speaking there with two tongues, purporting as you had done before, to support the cause of the residents in relation to the rent hike but not being critical of the councillors that were (20) responsible for it or supposedly responsible for it and not coming out against them as council. Let me make it even clearer, that you refused to repudiate the councillors and that is why you were not given a further hearing."

What do you say to that? -- Well I think what was put to Mr Masenya there at that point was with reference to the time when he sat down and there were people who were saying let him speak, allow him to speak, and others were saying no he cannot speak unless he makes a guarantee that he is not going to (30)

talk/....

talk about councillors.

No it was put to him:

"Let me make it even clearer, that you refused to repudiate the councillors and that is why you were not given a further hearing."

Is that the correct version? -- He was given a further hearing but now I want to understand, you say this is a correct version inas far as the people who were in the audience are concerned, not with regard to the people at the platform amongst who were the chairman. With regard to the people on the platform (10) there was a great debate among themselves to the extent that the chairman had difficulty in calming the people down, whereby I had to assist the chairman.

Is it correct that he did refuse to repudiate the councillors, yes or no? -- Well he refused to take the stage when he was offered to speak.

Did he refuse to repudiate? -- So that was understood to be the position that he cannot repudiate the councillors, that is why he wants to sit down.

And is it correct that he was not given a further (20) hearing? -- At that time.

Is it correct or not? -- At that time only, at that point only was he not given a further hearing. On what he wanted to say.

Who is the person who was not giving him a further hearing, who did not allow him to speak further? -- Put it this way, my understanding of that is that the people among the audience refused him further hearing because he would not repudiate the councillors. The chairman gave him a chance to speak and he did not want to speak and you cannot say that (30)

the/...

the chairman continuously said "Mr Masenya come up, Mr Masenya come up". Right? He did not do that, he did not continue persistently to call him up and thirdly if we limit it to that we can say then he was not given a hearing at that stage. But at a later stage when there was question time Mr Masenya was given a chance and was given a hearing because he asked a question and his question was answered by the very people in the hall, members of the audience.

And in conclusion I want to put to you that the mass meetings held in the Vaal were primarily held to mobilise (10) the people to participate in the march as part of the united action and the united struggle? -- That is not true.

Did nobody at any meetings attended by you plead for the unity of the people in their actions? -- Yes there was.

In unity in what actions? -- In decision making, and adhering to the decisions.

And I put it to you that the intention with the VCA, in conjunction with the UDF, was to dismantle Black Local Authority system and as such part of the government in the Vaal specifically? -- Can I have the question, I am not clear (20). on what is being said?

COURT: Repeat the question.

MR JACOBS: It was the intention of you in the VCA in conjunction with the UDF to dismantle Black Local Authorities, the system, as part of the liberation struggle? -- No we never reached such a decision between ourselves, anybody, with regard to the dismantling of those structures in the Vaal complex in advancement of the liberation struggle. The main aim at that time was put in to this court that at the time people were concerned with the rent protest and concerned with the (30)

disloyalties/....

disloyalties of the councillors and were prepared to talk to the Development Board as a government structure to negotiate on a structure that would be suitable for all.

And your aim in the Vaal was to the effect that Black Local Authorities must not function in the Vaal? -- Much as we had rejected the Black Local Authority as it was in the Vaal complex we had rejected it on the basis that it was not useful to the people in the Vaal complex.

And the aim was then to, so that it cannot function in the Vaal? -- No the point was that the councillors were to (10) resign. Because I still see the Development Board as part of the authority structure, very much closer linked with the Black Local Authority and if we said the councillors must resign and we will leave out the Development Board then that will not be sufficing by saying that we are destroying the Black Local Authority, because there we rejected the Act as it is, the provisions in the Act as it is. That is why then later we discussed with His Lordship here on whether if changes were to be made, such changes being suitable to the people, and I understand, now the question that will be there will be now (20) will the people be consulted on this first and will be such changes be enough to prove that this is a different structure.

But your aim in the Vaal was to the effect that the Lekoa Town Council stop functioning? -- That is so, we asked them to resign.

COURT: With the view not to replace them with other councillors? -- With the view of having the Board taking over temporarily whilst negotiations are entered into between the Board and the residents with regard to a particular structure that will be suitable.

(30)

ASSESSOR/....

ASSESSOR (MR KRÜGEL): What Board are we talking about now?

-- The Development Board.

Who should have taken over the Development Board, I am not clear on your answer here? -- No we were not talking about the taking over of the Development Board but the negotiations between the Development Board representatives and the representatives of the residents.

COURT: Well is this not an afterthought Mr Vilakazi because the Act was only amended much later to enable them to do that?

-- To enable who?

(10)

To enable the Board to take over the functions of the Town Council. -- With the experience that when the area of Sebokeng, which is relatively a new area, had been under the authority and being serviced by the Administration Board with the coming of the councillors many people, even at the meetings, would still say things were a big much better with the Development Board, with the Administration Board as compared to these councillors who are now bringing in these hardships. So the concept of trying to approach those people so that between discussions there something tangible, the government would (20) do something to negotiate with the people on the structures that the people want in the township was still an idea that was there, not because of the amendment to the Act.

MR JACOBS: And what particular structure did you envisage to discuss with the Board? -- The structure ...

If the council resigned and becomes non-functioning? -- That is so, the structure that the people would have proposed would have been that structure.

Can you tell what structure, what kind of structure? A civic structure out of the people or what are you referring (30)

to/....

to? -- Well it was not for the civic structure at that moment but the people were, the people in the Vaal complex were the people who were to decide on what type of structure. But that will be a structure that will be representative of the people in the Vaal complex, the people in that structure being democratically elected and people in that structure being answerable to the people of the Vaal complex.

COURT: I do not quite understand that answerable to the people of the Vaal complex. Were the councillors not answerable to the people of the Vaal complex? They were chosen by the (10) people of the Vaal complex? -- They were chosen by the people of the Vaal complex.

Well, and they were democratically chosen, I think we agreed on that. -- But if the councillors, if the councillors were given a mandate by the people and this mandate the council had to take a decision on it and this decision is taken, being a decision that will be to the benefit of the people in the Vaal complex and yet the council cannot carry out this mandate or this project as decided on after the mandate had been received then the council cannot go onto that project with-(20) out first the approval of the Minister, without first the approval of the Board in the form of an advice to the Minister before this project can go on. And also it will depend on whether the rentals will be enough to to carry out the particular project. Which means now for everything that will be there then it means now the only other councils where the structures are such that people are democratically elected into them, people give the councillors a mandate, then the people make decisions on the mandate and carry out the mandate and they can seek out other financial resources to carry (30) out/....

out this mandate. It is only, only when there are no other avenues for resources that these people will come back to the electorate and say now we want an adjustment to the mandate, here is the problem. Do we change the mandate or do we do what? That is being answerable to the people, not that being given the mandate by the people but the mandate, for it to be carried out then the project must be approved of by the Minister.

Mr Vilakazi let me put to you a proposition. I have the impression, it may be wrong but I have the impression that as this structure was imposed on you and as you had no repre- (10) sentation in Parliament you would not have been prepared to negotiate for a new structure unless and until, a new structure at local level unless and until you had representation in Parliament? Is not that what was in fact behind it? -- Much as every Black South African is aspiring for democratic representation in Parliament even if the Black people are aspiring for full political rights in the country of their birth here are immediate problems that arise. It does not mean that if people are looking up at the Parliament, at the political level, at Parliament level, then the problems that are here (20) around them must be ignored. These problems can be tackled, these problems can be tackled the way the people decide for themselves that we want to tackle the problems this way and they can be tackled like that. But that will only be if the government then frustrates the people by not looking at the very basic cause of the problems, as the people have identified them, and from time to time have made themselves available to assisting in solving those problems by being in organisations, by embarking on marches, protest marches like it was the case in the Vaal complex, and when the government ignores all those, ignores/...

ignores all those, and does not see that then the belief will still remain that this is not the issue but the issue is Parliament. There are many issues in the country which need to be tackled the way they are where they are.

Yes I agree with that but now then I would have expected you to have envisaged clearly what you had in mind, what body you had in mind for local government and you have explained it a number of times but I am still at a loss exactly how that body would differ from the existing body except of course that the financial basis would be stronger. That I understand (10) clearly. But apart from the financial basis being more sound how would the body you envisaged differ from the local Town council? -- Well if the financial basis will be sound ...

Yes that we agree on. Let us not debate that aspect. I understand what you say there. But now how would it be different from the present Town Council? -- It would be different in such a way that there would also be additional rights being given to that particular Council.

To do what? -- To buy land, to buy land, to embark on projects on land. This is one of the primary things that (20) are there, we cannot have land, you cannot have big businesses to come there so that at least some rateable property can be there to subsidise in the projects.

Well that is back to the financial basis. I told you that I understood. -- But in this case it is not on the basis of finance that they do not have enough money to buy land.

NO, no, it is that you want to buy land to establish industries so that industries can be established there so that you can have rates and therefore have a sound financial basis. That I understand. -- That is so. (30)

In/....

In what other respects could the present Town Council not accommodate you? -- The other respect is there is no way that the people, the residents, keep the councils in check.

But they can vote them out of office? -- They can vote them out of office and another council would come and be involved in some forms of corruption and all that.

Why? -- And they will always say we wanted to do this but the Minister did not want. They always reflect to the Minister.

That I do not understand either Mr Vilakazi because you and your friends could have stood in the elections and then (10) we would not have had any corrupt councillors? -- Yes.

Why do you say that everybody who stands as a candidate will be corrupt? -- Well it is an example My Lord. It is an example of the problems that are there, it is an example of the problems that are there and I am not saying that every one of them is corrupt. But it is a fact that there are those who are corrupt inside and because of this corruption being exposed in the community the community, the perception of the community becomes such that the entire council is corrupt because there is no way that the councillors are being (20) checked because they have been elected, the BLA has been rejected as an Act itself because it was inadequate to serve the purpose of a local authority in the black townships.

MR JACOBS: Just one question more. Mr Vilakazi I do not understand the whole concept of your argument because I do not understand your evidence of how can you have discussions with the Board against government policy, decide on a certain sort of council, I do not know what sort of council, against government policy and against the Land Act and against the Local Authorities Act, to bring in a new kind of ... -- The (30) Board/....

Board perhaps would then tell Parliament to scrap those Acts.

Thank you sir.

RE-EXAMINATION BY MR BIZOS: Mr Vilakazi very early on, I think about eight days ago, you were asked about the slogan Asinamale. Was this a slogan which was a 1984 invention or had you heard it before? -- This slogan has been there and has been used in a number of townships, through reading the history books, books that are referred to the history in South Africa one could trace it again to the times of Azikwela(?) in Evaton in the 50's where people would sing Azikwela because Asinamale and also (10) the bus boycotts....

Just, I am sure that His Lordship knows it but just in case anybody reads the record of that "we want to ride, we have not money", is that what the slogan was? -- That is so, yes, we want to ride but we do not have money, and also that in the Alexandra bus boycotts were also along those lines.

Yes. Now ... -- And throughout the years this slogan had been used where people, because of financial constraints, were exposed to problems, they have always used this slogan to express their situation. (20)

Yes. Now it was also put to you that you were indulging in boycott politics. Now in your evidence-in-chief you gave evidence of one example of the boycott politics that you yourself had taken part in and you recall that you told His Lordship that the liaison committee on the shop floor was boycotted and that that led to the success of workers, Black or White, being given the right to organise in trade unions? -- That is so.

You as a trade unionist did you see the Liaison Committee system capable of being reformed in the manner in which the (30) aspirations/....

aspirations of the working people could be achieved, could it be amended, could the liaison system of the shop floor, the individual employer, ever be amended to make it acceptable? -- Since this was a structure imposed on the workers by those in management, also because primarily the main point behind that was that made it difficult for one to hope to reform it in any way was that it was one of those priority issues management referred to as non-negotiable issues.

But despite it being referred to as a non-negotiable issue was it in fact negotiated out of existence? -- No (10) never negotiated out of existence, at least my experience is that through the boycott system and continuous protest by the workers ultimately it was removed.

It was removed. Now His Lordship also asked you this morning that, whether you knew that the amendment to the Black Local Authorities Act to enable the Board to take over if the council system failed was after the events that you referred to. Now I do not remember whether you yourself mentioned, you did, yes you did, the Coloured People's Representative Council. -- That is so. (20)

Did you regard that as indulging in boycott politics? -- That is so.

And do you recall what happened when the people elected to this council made it unworkable, what happened to its functions? Do you recall who took them over? -- The taking over I think was by the Provincial Councils.

Yes. Did you view the indulging in these boycott politics as, did it have from the point of view of the Coloured people, a successful or an unsuccessful result? -- It was a successful result, gave successful results because of the general (30) boycott/...

boycott and also to some extent it was influential to the establishment of this three chamber Parliament.

COURT: I thought I understood your evidence-in-chief to mean that that was not a success? -- To me I would not say it was a success because it still went on to create another structure that is the Tricameral structure which again did not come up with what the people who had joined there and dropped out were envisaging, that is a true democratic South Africa as a whole, as it was.

MR BIZOS: Well was it recognised that that limited body, (10) that they had, was not sufficient for the Coloured people, at least to that extent was it successful? -- That is so.

Now I want to turn to the questions that you were asked, how could you brand all the councillors as dishonest when you only had a few examples. Now I think that you referred to a further matter about the perception in the community but I just want to put to you some of the evidence that we have had in relation to the council as a whole.

COURT: Just a moment, why do you put that evidence to the witness? (20)

MR BIZOS: Because ...

COURT: Is that not leading?

MR BIZOS: No I am entitled ...

COURT: You are entitled to ask him his opinion, you are entitled to ask him examples and he can give you examples ad lib but if you put all the examples to him that is leading.

MR BIZOS: Well I always thought that ...

COURT: And if you use it in a sense to convince me you can do that at the end of the case.

MR BIZOS: Yes. No but My Lord what I always thought that (30)

if/...

if the information is before the Court, especially if it emanated from State witnesses, and that was what was put to the witness, that he was under cross-examination and he could think of three or four examples as to how this general perception arose, I am entitled to put to him whether that which is in evidence - it would be leading if I suggested to him that this might have been your reason but I have always understood the practice that if it is in evidence you can put the evidence to him.

COURT: And for what purpose Mr Bizos? (10)

MR BIZOS: In order that he may say whether that was present in his mind at the time or not ...

COURT: Why do you not ask him what was present in his mind at the time? That is an easy question.

MR BIZOS: Yes My Lord, if he was asked that in cross-examination, he gave four reasons.

COURT: Yes you can give him the four instances and say well apart from the four instances do you know of any other.

MR BIZOS: Well I will try it that way although I submit that I am entitled to, but do you, are you able to tell His (20)
Lordship of any facts other than the three or four specific instances that you mentioned that may have led to the bad reputation of the councillors in your community? If you can remember? -- Yes the practice by many councillors of withholding blankets meant to be given out to old age pensioners during winter days but being reserved for periods of elections or by-elections where this could clearly be seen to be an act of enticing votes on the side of the particular candidate.

And if I can echo a question often asked by My Learned Friends, did you hear any councillor objecting to this (30)

procedure of distributing blankets only in summer time? -- No I have never heard of such a situation and whenever they were confronted at the election meetings, that this is exactly what you will be doing and they will be saying "Oh we know that you are VCA, you do not see things the way the other people see it." So it was always that they were evading such direct accusations by people.

Are you able to think of any other examples which reflected on the reputation for honesty and public spiritedness of the councillors that you have not yet mentioned? (10)

MNR JACOBS: Ek mag net vra Edele is dit nou wat die getuienis verwys of kom hy nou met heeltemal met nuwe getuienis wat nie, dat nou verdere voorbeelde gegee word wat nie aanvanklik gegee was nie.

HOF: Hy sal seker nou verder voorbeelde gee.

MNR JACOBS: Ja maar ek meen is dit, is mnr Bizos op hierdie stadium ...

HOF: Ek het die getuie n vra gevra, toe noem hy vier gevalle, van vier mense. Nou vra mnr Bizos hom wel weet jy van nog. Ek dink dit is geregverdigde vraag. (20)

MR BIZOS: Thank you My Lord. Can you think of any other examples that reflected adversely on the reputation of these councillors? -- Yes, the mere fact that although we have heard evidence in this court here that the acquisition of bottle-stores in the area by a number of councillors and companies where a number of councillors had shares ...

COURT: Yes well we had that evidence Mr Bizos.

MR BIZOS: As Your Lordship pleases. Can you think of any other examples that led you to brand practically all the councillors in this way? -- Well mostly those would be (30)

confined to corruption.

Yes. I am doing this on the basis that it is a document in order to prove general reputation. Professor Van der Walt's report on page 29, I just want to read one sentence:

"No resident I spoke to had a good word wor the Lekoa Municipality".

COURT: Does that take it any further? How many residents did he speak to?

MR BIZOS: I think he says about 170.

COURT: No I do not think he spoke to 170. (10)

MR BIZOS: I am speaking from memory but it is somewhere in the report. Well did you, were you more successful than Professor Van der Walt in getting a substantial number of residents of Lekoa to speak well of the Lekoa Town Council? -- At the meetings that we had in the Vaal complex, the mass meetings, thousands of people attended and thousands of people expressed their opinions.

Yes. I think we know what those opinions are from the evidence as a whole. Now do you distinguish between a youth organisation and COSAS? -- Yes. A youth organisation may (20) be focussing on the activities of the youth in general in their day to day lives in the townships, either with special focus to culture and any other problems right up to religious problems that the particular youth may be interested in. But COSAS I know it to be a student organisation formed to look after the interests of the students.

As a person who has taken ...

COURT: Are you going to be long still Mr Bizos because I see that I have not taken note of the time.

MR BIZOS: I have four or five short topics to deal with. (30)

COURT: Yes, well we can deal with them then.

MR BIZOS: I think it will be better then, especially with re-examination. I prefer not to take adjournments. Now as a trade unionist and a person who has taken some part in the affairs of your community do area committees, house meetings, mass meetings, is this the, do you regard this as the sort of sole trade mark of the United Democratic Front or are they used by other bodies and organisations? -- These are not the sole trade marks of the United Democratic Front as is suggested. Many organisations and groupings in the townships, even (10) church groupings, do use the methods of going house to house or moving in particular areas to hold house meetings and of course mass meetings because this is the way that has been seen to be most effective in organising people and also most effective way to understand the people you are organising and for them to be at leisure and in the comfort of their homes, to be in a position to look deep into what you are bringing to them, to question you on the problems, to discuss openly whatever problems you may be having and also to discuss the project itself. (20)

You also told My Learned Friend in answer to a question that you regarded yourself in the VCA as full partners with the UDF, at one stage you said "Yes we regarded ourselves as full partners". You told His Lordship that your affiliation was on the basis that you would retain your autonomy. Now I do not want to debate the law of partnership with you. Did you at any stage depart from, did you at any stage depart from the stand that was taken in October/November 1983 that your affiliation was on the basis of retaining your independence?

-- No.

(30)

If you in fact retained your independence did you or did you not feel free to engage in any campaign or any action which might or might not have been suggested by the UDF? -- We were free to do that.

I want you to please have a look at EXHIBIT 4 which was read to you at some length by My Learned Friend and where great emphasis was placed on the words "destroy the Black Local Authorities".

COURT: Which one of U4?

MR BIZOS: U4(b) My Lord. In Volume 1 of the U series. (10) Now you then, your answer you recall was that the word "destroy" must be read in the context it appears, you recall, in the document "destroy the BLA" and you said to His Lordship well this was a planning session and it depends in what context this was used. Now if we read the document, I merely want to refer to you what you were not referred to in cross-examination, on page 8 of the same document it appears that at this conference there is the heading "Session 6 - Where do we go from here". Would you just glance at that, which is in question and answer form. Is there any suggestion of any violent (20) conduct being suggested to anyone as to what is to be done and how the people who were trained at that conference were to behave? The sort of you know, just get more members, hold more house meetings, to on to do this, that and the other. Do you see anything about violence there?

COURT: I take it that it is implied in the answer that the answer is no?

MR BIZOS: Yes you can take it from me that there is ... -- Yes the reason, but what is more impressive I can see instead of criminal acts being advised here there is (30)

proposition for rehabilitation for criminals.

I want to refer you to page 9 where there is a specific suggestion as to what you should do if you were to listen to the organisers of this seminar in relation to Black Local Authorities:

"Expose powerlessness of local government using day to day issues".

And that is as far as it goes. Would you have understood that as an incitement to violence of the people at this conference?

-- No.

(10)

Thank you My Lord, we have no further questions.

ASSESSOR (PROF JOUBERT): Mr Vilakazi will you please try to clear up one little thing about the meeting at Small Farms on 26 August 1984. You said that you arrived there with the Reverend Vilakazi and you arrived at the beginning of the meeting and took minutes of the meeting? -- That is so.

Are you sure that you arrived at the beginning, before the meeting actually started or could there have been proceedings before you arrived? -- No, when we entered the hall the chairman had not yet announced the opening of the meeting, though there were many people already in the hall. As we entered he then, it is only then that he asked the, he declared the meeting opened and asked one person to lead us in prayer.

Could there not have been one or more other speakers before you entered, before you thought the meeting officially started? -- Having addressed the people, if there was anybody who addressed the people it would not have been at the time when the meeting was starting because I was there a few seconds before the meeting started.

(30)

COURT: Were you there at the time given for the start of the meeting? -- That is so.

NO FURTHER QUESTIONS.

COURT ADJOURNS FOR TEA. COURT RESUMES.

MR BIZOS: My Lord before calling the next witness Mr Vilakazi had to make a decision before giving evidence, he has been advised that he should have certain surgery performed by Dr Gideon Naude, a specialist surgeon. He chose to give evidence before asking for permission to have this surgery done. Could he have Your Lordship's leave to absent him- (10) self from the court at a time when it is arranged by Dr Gideon Naude for him to be admitted to hospital.

COURT: Well will you notify me that, I do not think that there will be any difficulty. Just notify me of the date.

MR BIZOS: As Your Lordship pleases.

NAPTHTALI MBUTI NKOPANE: d.s.s. (Through Interpreter)

EXAMINATION BY MR BIZOS: Mr Nkopane how old are you? -- 42 years.

Married? -- Yes.

Do you have children? -- Three yes. (20)

School going age? -- Yes.

And what was your occupation before your arrest? -- I was employed by Protea Furnishers as a stock controller in Vereeniging.

Now so that His Lordship may get some idea of your background, without actually giving us years and the names of the employers what sort of jobs have you done in your life? -- I was employed at Vereeniging Hospital as an admission clerk and then again I was employed by Electricity Supply Commission as a record clerk. From where I was again (30)

employed by Ellerines Furnishers as an invoice clerk.

Yes. And, sorry. What formal education have you had?

-- Standard eight.

And were you a person of any sort of high political profile in your community before August 1984? -- No that is not so.

What sort of bodies had you taken part in in your community, if any? -- I was once a member of the school committee. That is from 1981 I became the member until in 1984 when I was arrested. (10)

And did you have any considerable experience in presiding over meetings? -- Yes I had some experience in that.

Well where did you get this experience? -- That was, I acquired that experience during the period when I was a member of the school committee because I was holding meetings with parents.

Now when did you get your own house in the Vaal triangle? -- It was in 1978.

Remember what your rent was at the time? -- When I moved in there my rental was R30. (20)

COURT: Just a moment, when you use the word "rental" you mean rental plus service charges, that is the total sum payable?

-- Inclusive of everything it was R30.

MR BIZOS: And so that His Lordship can get some idea at the time what was your salary? Your monthly earnings? -- R315 per month.

That was your salary in 1977? -- No in 1978.

In 1978. Was your wife working at the time? -- No she was not.

Now we know that in 1977 the Community Council system (30)

was introduced in the Vaal complex? Did you show any interest in this new system at all? -- AT the time when this was introduced I did not know how it was going to work, that means how it was going to operate. As a result of which then I did not have any interest except my interest being that I wanted to see how it was going to work later, once it starts working.

Was there any history of political involvement in your family, were you really interested in public affairs other than your own immediate needs? -- No not at all.

Was there any campaigning for this first election (10) that you can recall? -- No there was none. Except of course quite a number of people were making enquiries as to how is this thing going to work.

COURT: In which zone to you live? -- Zone 3.

Sebokeng? -- Sebokeng, yes.

MR BIZOS: And did you take part in that election? -- No I did not.

Was that as a result of wanting to boycott this system or for some other reason? -- My only reason why I did not take part in that is because as I said earlier because of my (20) not having understood how was this going to work. I therefore did not have any interest in it.

Did any member of your family vote as far as you can remember? -- Not from my family. Save for one relative about whom I know, that is who took part in the elections or voting.

A young person or an old person? -- It is an old lady, quite old, about the age of 70 years.

COURT: A progressive lady it seems.

MR BIZOS: Yes, and did you ever, it leads to perception and not to the truth of it. Did you ever ask her why she had (30)

voted and what it was all about, did you ask her what her understanding of it was? -- Yes I did. Yes I did on which she said to me the person for whom she voted had promised or told her that the rentals are going to be decreased.

Yes, and as time went on did the rent remain the same or did it increase or did it decrease?

COURT: Just before we get to that question. So what you are saying is that your part of the community, that is your family, did not vote because you did not know the system, did not know how it worked? Is that what you are saying? -- I did not (10) have an idea how this was going to work, that is myself inclusive of my family, and the people to whom I was acquainted did not know how this thing was going to work, that is in the vicinity where I lived. As a result of which then nobody knew exactly what was this council about and how was it going to function.

MR BIZOS: And after this introduction and after the relative said, who had voted had said that the rent would be decreased, did the rents decrease or did they remain the same or did they increase? -- The rentals increased. (20)

COURT: But before the council did not the rentals also increase from year to year? -- Not in the same way as they did immediately after the councils started working.

MR BIZOS: I want to deal specifically with the 1982 rent increase. Did you attend a meeting that had something to do with rents in 1982? -- Before I go onto that I just wanted to correct something.

Yes? -- This is I had not completed the answer from the old lady I spoke about, the one who took part in the votes. She said to me the promise by the person, the candidate (30)

for whom she voted there was that the rentals are going to be decreased, alternatively if not they will remain where they are, they will not be increased in other words.

Is that what you wanted to add? -- The third alternative which was given to her by this candidate was that if ever the rentals were to increase it will not be by a large amount, it will be a very small amount.

Have you finished with the explanation? -- Yes.

COURT: Now that we have the amended hearsay on record let us go on with the case. (10)

MR BIZOS: As Your Lordship please. Did you attend a meeting on, it is a matter of record, the date will be proved by the document.

COURT: Yes?

MR BIZOS: On 2 February 1982? -- Not on 2 February but one day just before the end of January, still in January 1982 was this meeting.

COURT: 30 January? -- No not 30 January, I cannot remember the exact date. What I am saying is some few days during one of the days just before the end of January 1982 a meeting (20) was held which I attended.

MR BIZOS: Yes, I want, I am going to show you a newspaper cutting of 2 February 1982 in The Sowetan and I want you to please tell His Lordship whether you recall going to the meeting referred to in this report.

COURT: DA3?

MR BIZOS: DA3. -- Yes I do.

Now do you remember seeing this newspaper report shortly after you attended this meeting? -- Yes I do.

Now I am going, with His Lordship's leave, not to (30)

ask you what happened at the meeting but to read this into the record and ask you whether you remember whether this happened or more or less happened.

COURT: Is this not hearsay Mr Bizos? Why do you not ask him what happened at the meeting if it is relevant?

MR BIZOS: I can ask him My Lord, I thought I would take a shorter way because if he read it immediately afterwards it can, if he can use it as an aid memoir, but ...

COURT: He did not read it immediately afterwards, he read it on the 2nd, or later. (10)

MR BIZOS: Yes, well can you recall what happened at this meeting? -- Yes I can.

Well please tell his Lordship as you remember what happened? -- This meeting was held by a councillor who was in charge of the ward wherein I lived. The purpose of this meeting was for him to come and inform the constituency there about the increase on rentals, namely Edwin Mofokeng. When the meeting started there he informed the people that the rental was going to increase by R10.

Could I just pause there for a moment, what was your (20) rental at the time, before the proposed increase of R10? -- At the time when this was introduced to us by this councillor I was paying R33 a month for rentals because when I moved into this house for the first month I paid R30 but I was then informed that the second month I will have to pay R33. From then onwards it was going to be R33. As a result of which then during this time I was already paying R33.

COURT: So in fact since you moved into the house, apart from the first month, you paid R33? -- No, no, let me explain it this way. I think I made a mistake somewhere. When I (30)

moved into this house for the first time I was paying R30. The end of the second month that I was occupying that house then I started paying R33, that was still in 1978. During the year 1979 there was some rental increase by R5. Again in 1980 there was an increase on rentals, although I cannot quite remember exactly by how much in 1980 but again in 1981 there was another rental increase which then means by the year 1982 I was paying R57.

MR BIZOS: Was that before or after the suggestion of the R10 increase? -- That was before. (10)

Just to make it absolutely clear that this R10 increase that was being discussed in January 1982 would you rent be approximately R67? -- Yes that is so.

Now...

COURT: And your earnings were, at the time? -- I think I was earning about R330 per month.

MR BIZOS: Married and already with three children? -- Yes.

COURT: And your wife, was she working?-- No she was not.

MR BIZOS: Does your wife enjoy good health Mr Nkopane? -- No she is not enjoying her health well. She is suffering from (20) high blood pressure and something diagnosed as hypertension.

Whilst we are dealing with the question of the rent we might as well do the complete thing. How much were you paying before the proposed increase of R5,90 in 1984, how much were you paying then? -- I was paying R82.

And what were your earnings in 1984, do you remember Mr Nkopane? -- I was earning R385 per month plus commission, that is if I sold something.

You were, how much did your commission come on an average per month, do you recall? -- I would say about R50 average. (30)

COURT: Did you live in the house on your own or did you have lodgers? -- Only myself and my family lived in that house.

MR BIZOS: And your three children at school? -- Yes.

Well were you coming out in fact Mr Nkopane, were you coming out comfortably? -- No not at all because except this rental that I had to pay I had to pay for my children's schooling and provide food, cater for the family in the house. I had to give a hand to my in-laws as well financially, or give assistance whatever way I could because of the fact that my father-in-law had suffered from stroke as a result (10) of which his one side was paralysed.

Now you told us that you attended the meeting at the end of January 1982 when the question of the R10 was increase was being suggested. -- That is true.

Why did you go to the meeting? -- Well I was interested to go and hear what is being said at that meeting because I was one of the residents there.

Could you please tell us briefly in your own words what you recall happened at that meeting? -- What happened there at this meeting at the time when this councillor Edwin (20) Mofokeng was explaining about the R10 increase on rentals, saying that this increase is money that had been calculated to come and make some improvements in the township, as a result of that he was questioned by the people attending the meeting there as to why is he calling a meeting just to come and tell them about the increase on rental and did not call them together to discuss the proposal of this prior to it being introduced. In reply to those questions from the audience he said he himself was not in favour of the increase of rentals but at the Council's meeting he was outvoted. (30)

Therefore he had no alternative. From the audience one member of the community there then said to him "What you are telling us now with reference to this explanation as to why he did not call the people together first he was not telling the truth, he is lying to the community because he himself is one of the councillors. The same person then further said that this man, with reference to the councillor, must tell the truth, he has not told the truth because their being in the council there they do not have any powers as a council, instead they are just operating there as a rubber stamp. The same (10) person further said to the councillor if that be the position as I have put it to you that what I have just put to you is going to cause a misunderstanding.

INTERPRETER: The word used by the witness is ambiguous in the sense that it might mean it is going to cause a misunderstanding between me and you or it is going to cause a fight between me and you or if it should mean that it is going to cause a bad feeling.

COURT: May I just get some clarity Mr Interpreter. If you have this sort of difficulty with a word which is not (20) clear I suggest you ask the witness first exactly what he means and then give us the answer because this, then now we write down a lot of things one of them which may be correct and it has to be clarified in any event.

INTERPRETER: As the Court pleases. -- This was going to cause a clash between him and the council because him, the councillor, is not telling the truth. At that time while this councillor was addressing this meeting he had called there he had his gun hanging on his waist from the belt (as indicated by the witness) and this was visible to the people attending(30)

the meeting. As a result this man later said to him "I am surprised how can you come and address a meeting while having a gun with you. As a result of which then the community, that is the audience there, shouted the councillor down. Despite his having been shouted down by the audience he, after they were quiet, continued with his address. In reply to that, that is after this man had mentioned his behaviour with the gun etcetera his manner of reply to that was not in fact pleasing. I also did not understand it in the sense that I did not approve of it, it was contemptuous. He then said (10) the following, he further said that he himself, meaning himself the councillor is a tsotsi, he is not scared of anybody, he can fight anybody anywhere. His uttering of those words were not satisfactory to the audience there. As a result of which the majority of the people got up and left. I remained there. At the end of this meeting the people, that is the community who remained there, were still not clear about this increase on rental and they were not accepting it. When he left the people said to him even if they can pay that rental, that is the increased rental, they will be paying it in (20) protest. Before this meeting was called off or dispersed I left. That is all.

Can you recall ...

COURT: Now having heard all this in which way is The Sowetan of 2 February 1982 relevant?

MR BIZOS: I will be completely frank with Your Lordship, I am pleased that Your Lordship suggested that I should not read it and ask the witness to ...

COURT: I have written it down, I have listened to it and it is clear.

(30)

MR BIZOS: That is so. I will not press on it going in. I thought that in case it is suggested that this, I have made it available, I have made it available, I do not intend reading it in. If My Learned Friends want to make anything of it in cross-examination perhaps they can decide whether it is, they could suggest that this is not true or something like that but I am indebted to Your Lordship for the suggestion. My Learned Friends can keep theirs and they can check it.

COURT: This exhibit is deleted.

C.515 MR BIZOS: What sort of feeling did you leave the meeting (10) with? -- My perception after having heard what was discussed at this meeting I found myself in agreement with the person who was saying the councillors were just a rubber stamp, the reason being it was true that they did not inform the community whenever they wanted to increase the rentals. Secondly I also was in agreement with this man that this was not a proper way, a proper respect to the people or the community for one to address a meeting with a gun, especially a person who considers himself as a leader of the community. Thirdly his reply to what had been said by the person who was ques-(20) tioning him was not a pleasing one, nor did it have any respect because my feeling was that a leader is not supposed to use such words addressing a meeting or the community as such, that is in general. His saying he can fight any person and he is not scared of anybody, instead of addressing those words direct to the person who was talking to him. That made me feel that this person does not have any respect to the community.

Yes, now let me ask you this. You personally who would now have to pay over R80 in rent, the suggestion made that it was the increase in rent was needed for further facilities, (30)

to provide further facilities, if you had been given a choice, if you had been given a choice, having regard to your financial position, between having the further facilities and paying more rent or even possibly not having the further facilities and paying the same or a lesser rent which would you have chosen at the time? I am sorry I am corrected that at that stage your rent was R67 and not over R80, if we are going to deal with it at that stage.

COURT: Well I wonder whether you are right Mr Bizos.

MR BIZOS: I think it was going to be ... (10)

COURT: Are we dealing with '82?

MR BIZOS: 1982.

COURT: It was R57, and would get to R67.

MR BIZOS: Yes, if you had to choose, whatever it may have been at the time if you had to choose between restricting further facilities and paying the same or a lesser rent which would you have chosen? -- I would rather choose that the rent decreases.

COURT: Would you choose that the rent remain the same and not be increased and live with potholes and have no high rise (20) lighting? -- My feeling was during that year that the increase that I was already paying was far more than whatever improvement was being mentioned for the increases there, that is the rentals.

MR BIZOS: Well let me ask you this way, was this the first time that improvement of facilities were mentioned as a reason for the increase of the rents or had it been done before? -- No it was not the first time, each and every year whenever they increased the rentals they were saying they were going to do certain things as improvements. (30)

Were the improvements that they said they were going to do in fact made? -- Some were made at certain places, just here and there, not everywhere and some were not done at all.

What do you say, from your personal experience, about the evidence of some of the witnesses who gave evidence for the State that until the formation of the VCA there were no complaints about rent increases in the Vaal? -- I do not agree with that, there were complaints.

How many people were there at the meeting at the end of January 1982? -- Hundred and fifty plus. (10)

Did anyone there pass a motion of confidence in the councillor and thank him for the increase of the rent and the promise of facilities?

COURT: Well one person cannot pass a motion of confidence.

MR BIZOS: Well propose a motion of confidence? -- No none.

Yes. As far as you know, was this a zone meeting or a general meeting, or a ward meeting? -- It was a ward meeting.

Do you from your personal knowledge know whether during that year when that R10 increase was suggested whether there were other ward meetings or not? -- Well from what I heard (20) people saying, that is people from different wards, yes I do have a knowledge of that.

MNR JACBOS: Ek wil beswaar maak dat mnr Bizos nie hoorsê getuienis lei wat op hoorsê kom nie. Wat hy nou, wat hierdie man gehoor het oor ander

MR BIZOS: My Lord an attempt was made by the State to prove the opposite, that there were no objections or protests in the area until this VCA came onto the scene. If in fact it was general talk that there were these protests and that these objections, the evidence is admissible although (30)

hearsay to negative the suggestion made by the State witnesses.

COURT: The objection is that you are leading evidence of ward meetings of which the witness has no personal knowledge.

MR BIZOS: Yes but if he heard that there were ward meetings and that there were similar objections then the perception of the community could not have been correctly described by the State witnesses.

COURT: Mr Bizos it is not the perception of the community, it is the one or two people who told him that that say so, and you cannot test it. Where does this lead us? (10)

MR BIZOS: I will leave it at that, as Your Lordship pleases. Now having mentioned the VCA when did you hear anything about the VCA for the first time? -- The beginning of October 1983.

How did it come to your notice? -- I read from a newspaper about it and later I got a pamphlet in which it was mentioned.

COURT: What was mentioned? -- In this pamphlet this was a notice about a meeting which was going to be held at the Roman Catholic Church, Zone 12, Sebokeng. This will be a launch of the VCA.

MR BIZOS: And did you decide to do anything about that? (20)
-- Yes I decided to attend that meeting.

Did you have anything to do with a body called the Action Committee or any other persons that called that meeting? --
No not at all, I did not even know about that.

And did you turn up at the meeting of 9 October 1983?
-- Yes I did.

Yes. When you got there was the meeting about to start or

MR JACOBS: Edele ek maak beswaar dat mnr Bizos sê dat as hy daar gekom "Was the meeting about to start", dit is n (30)

leidende vraag wat hy stel en hy kan vir die getuie maklik vra wanneer het hy daar aangekom.

HOF: Wel eintlik vra hy hom was dit besig om, ja wel goed mnr Jacobs dit is nie so 'n verskriklike sonde nie.

MR BIZOS: I actually asked it in a way which would be precisely the opposite if Your Lordship listens to the answer, if the witness is going to be consistent with himself. Did you arrive there before the meeting started or not? -- The meeting had already started.

Can you recall what was happening when you came there?(10)
-- Yes I can.

Who was speaking? -- On my arrival there I think, I believe Dr Motlana was the speaker.

Yes. Now I am not going to ask you a lot of detail about this meeting and we will try and keep it short. Did you know of Dr Motlana before this? -- Yes I knew about him.

What did you know him as? -- Well I knew him as a person who is considered to be a leader amongst the Black community. And as the chairman of the Committee of Ten.

Is this something you had personal knowledge about or (20) what you had been informed? -- Those are thing that I heard about, not from a personal knowledge. That is reading about them from newspapers.

Did you listen to any other speakers? -- Yes I did, for instance Curtis Mkondo.

Did you know anything about him before this meeting? -- No except that I knew about him from reading newspapers, that he is very much involved about education.

Do you recall the name of any other speaker that spoke at this meeting? -- Yes there is a third person whose name(30)

I cannot remember what his name was.

Even now you cannot remember what his name was? -- I only heard later that that person's name is Elliot Shabangu.

Did you know either, did you know Mr Elliot Shabangu or anything about Mr Elliot Shabangu before this meeting? -- No I did not know anything about him.

Did you know whether one or other or all of these speakers were there in their personal capacities or whether they represented any organisation when they came to the Vaal? -- I did not know as to how they came to be there. (10)

Did you know anything about the UDF at that stage? -- I did not know a thing about the UDF except from what I read from the papers that such an organisation has been formed.

Did you know whether the three speakers that you have mentioned had any connection with the UDF whilst you turned up there as a member of this audience? -- No not at all, I did not know that they had anything to do with UDF or whether they were involved in any way with UDF. I was under the impression that Dr Motlana was still with the Committee of Ten.

Did any of these speakers in their speeches use any (20) language which suggested to you that violence should be used for any purpose whatsoever? -- No not at all.

Did you know, before you went to this meeting, or did you learn at this meeting that there were going to be council elections in November 1983? -- Yes from reading newspapers I had that information and in fact even from talks from other people I knew that.

I have already indicated to His Lordship that I am not going to ask you what the speakers said. Was the question of the council elections mentioned at the meeting at all? -- (30)

Yes/.....

Yes there was.

What was said about that? -- Although I am not in a position to quote them verbatim but what I can tell the Court is this. I understood the gist of what was being said there to be that the councillors will not have the powers envisaged by whoever considered them to be councillors. Then thereafter there was a call that the election of the councillors must be boycotted.

You have already explained to us your unpleasant experiences with the councillor at the end of January 1982. How did (10) this call appeal to you that the councillors would have no power and that they should be boycotted, how did that appeal to you personally? -- In view of my previous experience on that, that is on councillors, for instance that the councillors were in fact being controlled by the Administration Board, I agreed with that that was being said.

And it is common cause that a motion was moved and it was adopted as a resolution that the Vaal Civic Association should be formed? -- That is so, I am one of the people who were involved in supporting that decision. (20)

Yes. how did you become involved in supporting it? -- By that I mean when it was proposed that there be a Vaal Civic Association, that the Vaal Civic Association be formed I am one of the people who supported that proposal for the formation of the Vaal Civic Association.

COURT: By raising your hand or by speaking in favour? -- To speak in favour.

MR BIZOS: Did you briefly speak in favour of it? -- What I mean by speak in favour is a question was asked from the audience "Do you people agree that we form a Vaal Civic (30) Association/....

Association, on which I orally answered and said "Yes". That is what I mean.

COURT: So everybody shouted "Yes"? -- That is so.

MR BIZOS: Yes, the motion was passed by acclamation, I think that is how the minutes read. Now did you ever get, how did you regard yourself having said your yes, how did you regard yourself in relation to the Vaal Civic Association after that? -- Because of my having approved to the formation of the Vaal Civic Association and the experiences of problems we had in the townships I found myself to be a member, or forming (10) part of the Vaal Civic Association. Or I considered myself to that.

COURT ADJOURNS FOR LUNCH.

C.516

COURT RESUMES.

NAPHTALI MBUTI NKOPANE: d.s.s. (Through Interpreter)

FURTHER EXAMINATION BY MR BIZOS: Mr Nkopane you will recall that we were dealing with the meeting at which the Vaal Civic Association was formed on 9 October 1983? -- Yes that is so.

YOU told us of the three speakers that you heard, were they the only speakers or were there a number of others? (20)
-- There were other speakers.

Yes. Did you hear any other speaker at this meeting say anything which conveyed to you that there was anything illegal about this organisation that was being formed? -- No.

Or did any one of the other speakers, other than the three that you mentioned by name, advocate the use of violence for the solution of any of the problems that you were facing in the Vaal Triangle? -- No.

Now you have told us that there was a resolution that the Association was to be formed. Were there other resolutions (30) passed/....

passed as well? -- Yes there were.

Right I will not ask you what they were. If anyone wants to ask you about them they can. Was there an election in your presence? -- Yes there was.

I will ask you in relation to the chairperson only. Do you recall who the nominees for the position of Chairman were? -- Yes I do.

Do you remember who the nominees were? -- Reverend Lord McCamel was one of them. Mr Esau Raditsela and a third person whom I cannot quite remember. (10)

Yes, in view of the role played by the first two persons that you have mentioned I want to ask you what you knew about both of them. Did you know the Reverend Lord McCamel before this? -- Yes I knew him long before this day.

How long before? -- Well from childhood, we grew up together in Evaton, we were together at school as well.

Yes. And did you know him as the leader of a church in Evaton? -- Yes that is so.

And did you know him as a school teacher? -- Yes I knew him as a teacher. (20)

Did you have any trust in him as a result of what you knew of him in relation to his community work? -- Yes I accepted him to be a trustworthy person because I in fact knew his parents who were also trustworthy.

Was his father in turn the leader of his church? -- Yes he inherited from the father.

Did you know Mr Esau Raditsela? -- I came to know that gentleman between these years, I am not quite certain between it was 79/80 or 80/81 but during that period.

Did you have any dealings with him between the time (30)
that/...

that you met him and when he was a candidate for the Chairmanship of the VCA? -- Esau Raditsela was known to me, he was one time a co-worker of mine.

Where? -- At a place of employment called Naschem.

Had you been on visiting terms with this Mr Raditsela or not? -- No.

Would you have considered him a close friend of yours in 1983 when you went to the meeting on 9 October? -- No he was not a friend of mine because in fact the place of employment where we were both employed we parted there in 1981. And (10) then thereafter we did not visit one another.

In 1983 did you have any reason to believe that Mr Raditsela was involved in any way in any unlawful political activity of any sort? -- Not at all.

His Lordship knows that the Reverend Lord McCamel was elected as Chairman and Mr Raditsela was elected as Vice-Chairman. In view of some of the suggestions that have been made by the State perhaps you would like to tell His Lordship who you voted for as Chairman of the VCA at the meeting of the 9th? -- I voted for the election of Reverend Lord (20) McCamel because he was known to me for years or some time.

Yes. Now you also told His Lordship this morning that having acclaimed the birth of the Vaal Civic Association you considered yourself a member of the Vaal Civic Association? -- Yes that is true.

Despite that did you seek any office in the Vaal Civic Association? Before August 1984? -- No not at all.

COURT: Whether you sought it or not were you elected? -- No I was not elected.

MR BIZOS: Yes, prior to August? -- Yes up until August 1984. (30)

We/....

We will come to that event. When did you hear about the proposed increase that was to come into effect on 1 September 1984, when did you hear about it for the first time? -- It was the end of July I got that from the newspapers. I again heard of it for the second time on receipt of a notice during August.

In view of the increases that you had faced the previous year how did you feel about this prospect of the new increase in rent? -- I was not at all satisfied because I felt that the rental that I was paying at the time was already high. And the condition of the place where I lived, that is beginning(10) right from the house in which I occupied and the area there was not at all satisfactory.

Were you alone in this feeling or do you know whether or not your neighbours shared your view? -- I was not alone in that feeling, my neighbours and the people I knew were also of the same view like myself.

Yes. Did you meet any office bearer of the VCA during this period?

COURT: This period being up to August 1984?

MR BIZOS: Before August when the rumours of the increase (20) in rent were being discussed? -- Yes that is correct, I met Mr Raditsela.

Is that because you deliberately went to seek him out or not? -- No.

How did the meeting come about? -- He was not far from my place of employment in town, that is where he was employed at the time. Because of my knowledge of his being the Vice-Chairman of the Vaal Civic Association and my dissatisfaction about what was happening I approached him to go and talk to him about what was happening and wanted some clarity. In (30)

the/....

the sense that I went to find out from him what the Vaal Civic Association was aiming at, what are they going to do for us as a community pertaining to this issue.

COURT: When was this? -- I do not quite remember exactly what the date was, subject to correct, I think it was 13 August 1984.

MR BIZOS: Did he give you an answer? -- Yes he did.

What did he say? -- His answer to what I had gone to find out about from him was in Zone 3 there is a representative of the Vaal Civic Association and there is going to be a meeting held there on the 14th, meaning the following day, and if (10) I feel like attending that meeting I can do so to go and discuss the issue with the people who will be attending that meeting he is referring to where this will be discussed.

Did he give you the name of the zone representative of Zone 3? -- Yes he gave me the name of the gentleman Bavumile Vilakazi. As a result of which then I asked from him what this person's address was.

And the person that he mentioned to you is the previous witness, accused no. 10? -- Accused no. 10 yes.

Did you know him before Raditsela suggested you should (20) attend the meeting of the 14th, did you know accused no. 10? -- No I did not know him.

Well did you go to this meeting? -- Yes I did attend.

COURT: Was it a house meeting? -- Yes it was a house meeting.

MR BIZOS: Now I am not going to ask you for all the detail of what happened at this meeting but I just, there are a number of questions that I want to ask you. The first thing that I want to ask you is this that it is alleged in paragraph 71.1.2 and paragraph 71(2) that you went to this meeting in furtherance of a conspiracy between the African National (30)

Congress, /....

Congress, the South African Communist Party and/or the UDF in order to overthrow the South African government by force. What do you say to that allegation Mr Nkopane? --I do not agree with that, I deny that altogether because the people with whom we met there to discuss were the residents of Zone 3 and what we discussed there was pertaining to the problems we were experiencing in that zone, namely the rentals was the most important issue there.

And what do you say to the State's allegation that the activity that you took part in at this house meeting, you (10) were taking part to plan riots, revolte and/or violence of the Black residential areas in the Vaal Triangle to endanger or attack and destroy the lawful structures of authority, etcetera, etcetera. What do you say to that sort of allegation?

COURT: Is the etcetera, etcetera there?

MR BIZOS: No My Lord.

COURT: Well how does the witness answer the question etcetera, etcetera. Does he answer it by saying etcetera, etcetera.

MR BIZOS: Yes well he has seen the indictment I might say (20) in self defence, ignore the etcetera, etcetera, with respect as His Lordship says they are difficult things to respond to but did you go for any of the purposes alleged in the indictment?-- I deny that because what I know is that we met there to discuss our problems which we were experiencing there, that is all.

Can you tell His Lordship more or less how many people were there? -- On my arrival there present were people approximately fifteen to twenty.

Did you know any one of them before you went to this (30)
house/...

house meeting? -- No, nobody was known to me from those people.

I ask you specifically whether Mr Jacob Hlanyane, who is no. 15 before His Lordship, was at that meeting or not? -- No he was not.

Yes, was he at a subsequent meeting? -- Yes he was present at another meeting after this one.

Yes. Do you know Mr Hlanyane well? -- I came to know him for the first time when I met him at this meeting there. By saying at that meeting I mean when I had gone there to another meeting, not the original one I attended. (10)

I see, yes. Now this house meeting, what sort of meeting did you regard it as? -- Well I took it to be the residents meeting, that is the Zone 3 residents meeting.

And who would you say was in charge of that meeting? -- Mr Vilakazi I will say was in charge of that meeting.

COURT: It was held in his house? -- Yes.

MR BIZOS: Alright. I am not going to ask you what he said in any sort of detail. Did he speak about the VCA? -- What he said there was it was his intention or aim to open a Zone 3 committee there, that is after having discussed our grie- (20)
vances pertaining to rental. He mentioned this committee he had in mind while trying to explain to us what the help from this committee was going to be.

What sort of help was that? -- What he said was as residents of Zone 3 with our own committee experiencing any difficulties or whatever kind of problem pertaining to the community there in the Zone we were going to be able to have our problems attended to and whatever is to be done done the proper way.

Can you recall whether Reverend Mahlatsi was there (30)

at/....

at that first meeting? -- Yes he was.

Was it a formal meeting at which resolutions were adopted or was it an informal meeting? -- It was an informal meeting in which we just discussed a subject and agreed upon it.

Well could you tell His Lordship about the main things that you agreed about after the discussion? -- We agreed there in that informal meeting to call a mass meeting at which we were going to discuss together now with the community the question of the increased rental. We agreed again on electing an Action Committee which will prepare for the holding (10) of the mass meeting that I have referred to.

When you say that you were going to call a mass meeting was that for the whole of the Vaal or the whole of the Southern Transvaal or what sort of mass meeting was this going to be? -- No it was a meeting meant for Zone 3 residents.

Did you agree on what date you hoped to have this meeting? -- Our aim was that this meeting was going to be held on 19 August.

Did anyone volunteer or was anyone asked to find a venue for this meeting? -- I am one of the people who volunteered (20) to help in finding a venue for this mass meeting. And a Mr Matsigiso also volunteered. In so saying I do not mean that this was binding on me only. It was agreed that anyone of us could find a venue for this mass meeting.

Was there any talk as to how you would let the people of Zone 3 know that there would be a meeting? -- We discussed that and agreed on pamphlets to be used to inform the community there.

Did anyone undertake responsibility for the production of these pamphlets? -- That is true, a person who is known (30)

to/....

to me only by the name of Lucas said he was going to see to that, that is the pamphlets.

Now was there any discussion as to whether or not an interim committee should be formed? -- Yes there was a suggestion like that.

Was that agreed upon? -- Yes it was agreed upon but on further it was said that this interim committee will be elected at the next meeting.

How did you refer to this committee, what word did you use for this committee? -- It had no name specific except (10) to say it was an Action Committee.

Do you recall whether at this first meeting of the 13th, sorry the 14th whether Mr Esau Raditsela was there? -- Yes I do recall, Mr Raditsela did come to that meeting.

Alone? -- No he was not alone.

With who was he? -- He was accompanied by the old man Matlole, accused no. 17 and Edith Lethlake.

Did they come into the meeting? -- What I remember is Raditsela did come into the meeting. I did not see Edith whether she came into the meeting because in fact Edith (20) was not known to me at the time. I only knew her by name and I just heard that she was there but she was not in the meeting.

And did you know Mr Matlole, the old man, did you know him before this? -- No I did not know him prior to this. I saw him there and I only came to know that he was Matlole when Esau was talking to him, referring to him as Matlole while in that meeting. It is only then that I came to know that he is Matlole.

Did Esau Raditsela and/or Mr Matlole take part in the deliberations of your meeting? -- No. (30)

Do/....

Do you know why they came there at all? -- They came there to check on me, whether I did come to this meeting as they had given me the address.

You only? -- I am sorry as Esau had given me the address, and not they.

Yes. Did they come to check on you only? -- No they did not come there solely to check on me.

I just want to ask you one question.

COURT: How do you know that? -- That is because Esau asked if somebody else was there. I did not hear what the name (10) of that person was but he made enquiries as to whether that person was also in that meeting.

MR BIZOS: I want to ask you only one question without any of the details lest it be thought that it was left out for some reason or another. Was there any talk about the councillors at this meeting? -- There was a talk about increased rentals. And the people who had attended there, or the people present there knew that the rentals were being increased by the Council.

Did you yourself speak at this meeting? -- Yes I did.

What did you deal with? -- What I dealt with was that (20) the increase on rentals is going to create problems for us because the improvements referred to justifying the increase on rentals are not that much seen by people to be taking place. Secondly I further dealt with this under the present rentals at that time, that that rental was rather now a heavy burden on one because already to me it was really a burden. And I also made reference to the condition of the housing in which I lived at the time, that since my moving into the house there is a corrugated iron which is not properly positioned, it is leaving a gap between the two corrugated irons, it has (30)

never/....

never been attended to until the time of the meeting, that is now since 1978.

COURT: Is that now a gap in your roof? -- Yes.

MR BIZOS: Well I do not want to stop you but was this the sort of issue that was discussed at this meeting? -- Yes that was the sort of a discussion we had in that meeting and the other people were also mentioning their problems in that line.

Did you know whether or not any meeting had been held in Zone 3 on 5 August by any councillor in your area to explain(10) the rent increase or the reason for it or to persuade people to pay it, do you know of any such meeting? -- No I did not know of that meeting.

At the first house meeting at Mr Vilakazi, accused no. 10's house, did you decide whether or not you would meet again? -- Yes on 16 August.

Now let us deal with the second house meeting. Did you in fact meet on 16 August? -- Yes we did.

What, were the same people present or not? -- The same people were present plus some others who were there for the (20) first time or people I can refer to as new members there. May I just correct that? By that I mean of the people who were there at the previous meeting were present, plus some people who were not there at the previous meeting. Now what I am correcting is this, it is not to say that it was fifteen or twenty plus, they were still rating between fifteen and twenty in number.

And were, these newcomers did you know them before this date or were they strangers to you? -- They were strangers. Of whom the majority were the neighbours of Mr Vilakazi. (30)

Well/....

Well it is alleged in the indictment that this meeting was held in furtherance of this conspiracy, what do you say about that? -- I am surprised to hear that, anyway I deny any knowledge of that.

Yes. Was Mr Jacob Hlanyane, accused no. 15, there on that day? -- No he was not.

At the second meeting? -- Yes at the second meeting he was not.

And was the Reverend Mahlatsi there? -- Yes he was.

Was an action committee elected at this meeting? -- Yes (10) it was.

COURT: Can you tell me why you did not know anybody at the meetings? Is it because you live far from Mr Vilakazi's house? -- Yes that is true, I am living quite a distance from his residence.

And can you recall who was on this action committee? -- Yes I can.

Please let us hear their names? -- Myself, Mr Olifant, Mr Vilakazi and Reverend Jacob Mahlatsi.

What was, did you know a Mr Maroping at that state? (20) -- No I did not know him.

Are you, did you know the names of the people that were there or not? -- From the day of our election as an action committee I then started knowing them by names.

But not at the meeting itself? -- What I mean is at that meeting, at the time of the choosing or electing of the action committee names were mentioned. Therefore from that I knew their names much as they came to know my name as Nkopane, as a result of what was happening there.

Were there any reports as to whether or not your (30) efforts/....

efforts to find a venue had met with success or not?

COURT: Just before you get to that, what office did you hold on this committee? -- There were no particular positions within this committee. All that was there was a committee general in preparation for the mass meeting.

MR BIZOS: Were there reports of the success or otherwise of the efforts to find a venue? -- Yes there were such reports.

Yes, had a venue been found? -- No there was some difficulty, we could not find it.

Did you give up the idea of having a meeting on the 19th(10) or thereafter or was any arrangement made? -- We continued trying to find a venue for this meeting.

And was a venue found for the 19th at any time? -- We could not find a venue for the 19th.

And did you make any decision? -- We continued trying to find a venue for this meeting to be held as a result of which then we agreed to meet again on the 21st for a report back as to what is happening, whether there is any progress in finding a venue or not.

For a date after the 21st I presume? -- That is true. (20)

Did you have a meeting on the 21st? -- Yes we did.

We will call that the third house meeting. The indictment alleges that this meeting too was in furtherance of this grand conspiracy. What do you say about that? -- No I do not agree with that.

COURT ADJOURNS UNTIL 6 FEBRUARY 1987.