

1. State Allegations

1.1. When the case began, the allegation made by the State at page 77 of the Further Particulars was that the ad hoc committee of Silverton organised in Tsakane since February 1985, and that revolt, violence and intimidation occurred.

Further Particulars p78

1.2. On 28 February 1986 this allegation was widened and, in terms of an amendment to the further particulars granted by the Court, the allegation then was that during the period October 1984 to July 1985, the ad hoc committee of Silverton and COSAS organised and revolt violence and intimidation occurred. These amendments were granted after opposition. It will be noted that the period is increased and that COSAS is added as an organisation.

Judgment in relation to application for amendment Vol 33 pl508 lines 26 - 28

1.3. The State has, in its argument sought to broaden the allegations even further although no further amendment was sought or granted. Thus, in the Betoog the UDF, and the Tsakane

Youth Congress, are also said to have organised in the area.

2. The admission in regard to damages in Tsakane makes it quite clear that the damage included damage to property which did not belong to councillors or had nothing to do with any government institution or authority. Reference is made in particular to the following property:

2.1. The 'houses' referred to in the first sentence of the admission.

2.2. The penultimate sentence of the admission which reads 'business and offices were stoned and burnt'.

2.3. The last sentence of the admission which reads 'trade vehicles and businesses were looted'.

AAS3: p3 of Annexure

3. The State's evidence in connection with the violence at Tsakane was as follows:

3.1. The violence began on 4 October 1984 with the stoning of buses, and thereafter escalated to a climax during March-April 1985.

Rossouw: Vol 117 p5860

3.2. There was apparently an incident of violence after the funeral of the 14 October 1984.

Rossouw: Vol 117 p5860

3.3. Next, there is specific evidence of an attack on certain single quarters belonging to the development board on 12 February 1985 after there had been a gathering at the offices of the development board.

Labuschagne: Vol 117 p5844 - p5845

3.4. There is a further reference to the community council police single quarters being set alight after the mass funeral which, on the State evidence, occurred during April 1985.

Coetzer: Vol 117 p5827

3.5. There are some acts of violence in respect of which there is no specification in regard to precise date or place.

3.5.1. Firstly, there is the evidence that the house of the chairman of the community council had been attacked before 9 May 1985 which was when he resigned.

Rossouw: Vol 117 p5865

3.5.2. Secondly, there is the evidence that two businesses belonging to a community councillor were destroyed. No date is specified.

Rossouw: Vol 117 p5865

4. State Evidence of Organisational Activity

4.1. In paragraph 1.1.1 of the Betoog (page 915) the State relies on Exhibit C118 for the proposition that Tsakane was within the East Rand Area Committee of the UDF. It ignores, however, the evidence that this committee had not functioned by as late as December 1984, and that there is in fact no evidence that it ever functioned.

See: Exhibit S17 paragraph 7

4.2. The State then relies on E2 para 2 for the evidence that a workshop was held in Tsakane. E2 deals with a meeting in 1983. The evidence is that COSAS became active in the area only after December 1984 and that the ad hoc committee was formed only during February 1985. In these circumstances, there is seemingly no connection between the 'workshop' and the organisations alleged to be responsible for the violence and damage in Tsakane.

Betoog: p915 para 1.1.2

4.3. The State led evidence of a general nature to the effect that COSAS, the ad hoc Homeseekers Committee of Silverton and the Tsakane Youth Congress were active in Tsakane and that these organisations held mass meetings at the Methodist Church. Posters and pamphlets which

referred to community councillors are said to have been issued and some of these pamphlets are said to have been issued by COSAS. These posters and pamphlets were however not produced. There was also evidence that slogans were painted on the walls from time to time saying 'Viva Mandela', 'Viva Sisulu', and to the effect that the South African Defence Force must withdraw from the township.

- 4.4. There is no evidence whatsoever about what was said at the mass meetings or precisely when and where they were held. There is also no evidence of precisely who painted the slogans onto the walls.

Coetzer: Vol 117 p5824

5. The State evidence in regard to the UDF presence in the area is as follows:

- 5.1. The crisis committee which organised the mass funeral already referred to had 'UDF sympathisers' on it. There is no mention of who these sympathisers were or precisely what their connection with the UDF was.

Rossouw: Vol 117 p5866

- 5.2. There was a UDF banner at this mass funeral which, according to the State's case, was held during April 1985.

5.3. There was a banner of the UDF at the funeral of Raditsela which took place during May 1985.

Rossouw: Vol 118 p5902

6. There is also evidence that at the funeral of 14 October there were two banners, one with an AK47 and another with a hammer and sickle. As has already been indicated, the evidence is that violence broke out immediately after this funeral.

Nkosi: Vol 122 p6100 et seq

7. The defence evidence was intended to show, and did show that

7.1. The ad hoc Homeseekers Committee of Silverton was not affiliated to the UDF, cannot be regarded as an active supporter of the UDF, and was intent upon solving the problems of the people of Silverton.

7.2. COSAS was not active in the area at the time of the alleged violence and intimidation and was not responsible for the school boycotts which took place during the period mentioned in the further particulars.

7.3. There was no effective UDF presence in the area.

7.4. Such violence as arose was a result of other causes and

7.5. There is no relationship between the violence which occurred in Silverton and the activities of the UDF.

8. The Silverton ad hoc Homeseekers Committee

8.1. Mr Nhlapo gives a very clear account of the circumstances in which people moved from Brakpan to Silverton.

8.1.1. It is common cause that Mr Nhlapo lived in the Brakpan Old Location. He was called to the office of the township manager and told that he would not be given a permit if he continued to live in the old location but that he would be given one if he went to live at a temporary place in Silverton. He was promised a four-bedroomed house within six months of moving to this temporary place and accordingly agreed to move.

Nhlapo: Vol 398 p23062 line 3 - p23064
line 20

It is clear from his evidence that Mr Nhlapo was unhappy to move. It

is also clear that promises were made to him. The State however simply summarises this portion of the evidence by saying that Mr Nhlapo testified that he moved to Silverton after 1981 where he erected a shack for himself. This is an incorrect summary implying that the move was voluntary and that the witness was perfectly happy to make the move.

Betoog: p917 para 1.2

- 8.2. The promise made to Mr Nhlapo was not kept and, during the period 1981 to 1984, he saw four-bedroomed houses being built on a number of occasions. On each of these occasions, he expected to have been moved to a house but was not. Instead some official of the Board tried to persuade him to move to a site and service scheme which he found to be too expensive and about which he was thoroughly dissatisfied.

Nhlapo: Vol 397 p23064 - p23067

He says that he was called to the site and service office in January 1985 and told that his shack would be destroyed unless he moved to the site and service scheme.

The State's summary of this evidence is that Mr Nhlapo was asked to move to the site and service scheme where he would have to build for himself but he refused to agree. This glosses over the question of compulsion, and the fact that his being asked to move to a site and service scheme was contrary to the promises initially made to him.

Betoog: p917 para 1.2.1

- 8.3. He says further that he attended a meeting called on 27 February 1985. At this meeting, reference was made by one Mahole who chaired the meeting to the pressure which had been exercised upon the people to get them to move to the site and service scheme. It was also recommended that a committee should be formed. He makes it quite plain that the UDF was not mentioned at this meeting. A committee was elected to consult with officials about forced removals and there was a decision taken to go to the board offices a few days later.

Nhlapo: Vol 397 p23067 line 4 - p23070 line

24

- 8.4. It is convenient at this stage to refer to the evidence of Mr Mkhonza who also gave evidence about a meeting at which a committee was

launched. It is submitted that this evidence refers to the same committee. Mr Mkhonza testified that this meeting took place on 27 January 1985.

Mkhonza: Vol 398 p23160 - p23163

Much has been made by the State about the fact that the evidence of Mr Nhlapo does not make sense if his evidence is accepted that the meeting took place on 27 February 1985.

Indeed the State devotes seven sub-paragraphs of its argument to this matter.

Betoog: p920 paras 1.2.11 to 1.2.17

However, his evidence makes complete sense once one substitutes the month of January for the month of February. Any illiterate person could make such an error. Once this is accepted, the evidence of this witness squares completely with that of Mr Mkhonza.

Apart from the problem about the date, which is the only criticism made by the State of the evidence of Nhlapo, it is submitted, bearing in mind the nature of the cross-examination of Mr Mkhonza, that the evidence in relation to the meeting of 27 January 1985 and as to what happened there is not disputed. In particular, it is not disputed that the UDF

was not mentioned at this meeting at all. It is clear from the evidence that the formation of the committee had nothing whatever to do with the UDF but had directly to do with the pressure which the board and/or its officials tried to exercise upon residents to get them to move to the site and service scheme.

- 8.5. The evidence is that a few days later (it will emerge from the evidence of Mr Mkhonza that this was 29 January 1985) a large number of people from Silverton went to the offices of the board. One Hadebe was appointed as spokesperson. There was a meeting with the officials at which the officials said that they would come back to them after consulting with higher authority. There was also an undertaking that people would not be forced to leave for the site and service scheme nor would they be harassed'.

Nhlapo: Vol 379 p23070 - p23072

- 8.6. Despite these promises the witness was wakened two weeks later very early in the morning (it is clear from Mkhonza's evidence and what was put by the State, that this would be 12 February 1985, being two weeks after 29 January 1985) by police knocking at doors. They gathered together members of their

committee and spoke to the police who said that they were simply doing their duty.

Nhlapo: Vol 397 p23072 - p23073

Some of the members of this committee went to visit Mr Mkhonza. The committee went to the offices of the Board but could achieve nothing there. Thereafter, and at 07h00 the next morning, they returned to the Board officials. Committee representatives had a discussion with Labuschagne at which it was agreed that a meeting would be held with officials sometime later. When the people returned, they found that shacks had been demolished. The evidence is clear that it was not the members of this group that caused the damage to the single quarters of the Development Board, and the State did not make any suggestion to the contrary to any of the defence witnesses.

- 8.7. There were, however, obvious reasons why people would have been angered by the conduct of the board and its officials, and such anger could have led to spontaneous violence by individuals affected by such conduct.
- 8.8. Mr Mkhonza also gave evidence concerning this committee. He was not associated in any way

with the UDF or its affiliates and had been a candidate in 1983 in the Black Local Authority election.

Mkhonza: Vol 398 p23160 lines 13 - 27

He testified (and this is common cause) that an old family friend visited him a few days before 27 January 1985 and told him about his (the family friend's) experience at the offices of the Board where he had been forced to move to the site and service scheme. Mr Mkhonza was asked to attend a meeting on 27 January 1985 at which this matter was to be discussed. He says that he was reluctant to attend the meeting because he did not wish to be involved in affairs which did not concern him, but that pressure was exercised upon him by this family friend who referred to the promises he had made to help the community at the stage when he had become a candidate in the community council elections. The witness accordingly reluctantly attended the meeting of 27 January 1985 where he spoke about the move to the site and service scheme.

Mkhonza: Vol 398 p23160 line 18 - p23163

line 11

The witness spoke at this meeting and offered to help. A committee was formed and there was

a decision to go to the offices of the board on 29 January 1985.

Mkhonza: Vol 398 p23163 - p23166

The witness confirms the evidence of the previous witness in connection with the meeting held on 29 January 1985 with more detail.

Mkhonza: Vol 398 p23166 - p23168

Mr Mkhonza supports Mr Nhlapo in regard to the events of 12 February 1985. He says that he was woken up very early in the morning on 12 February. They went to the office at Silverton and achieved no result. Accompanied by the members of the committee and the whole of the community of Silverton, they later went to the office. They spoke to Lt Labuschagne who acted as a sort of go between and arrangements were made which led to the meeting of 16 February 1985. At this meeting of 16 February 1985, Mr Rossouw himself apologised for the demolition of shacks and the pre-dawn raid. This is not in dispute. In addition, he undertook to consult with higher authorities about the question of the four-roomed houses.

Mkhonza: Vol 398 p23168 line 15 - p23171

line 26

Mkhonza then gives more details of meetings at which negotiations were held with officials of the board and members of the council.

8.9. Certain criticisms are advanced of Mr Mkhonza's evidence in paragraphs 2.5 and 2.6 of the Betoog (page 923):

8.9.1. He is said to be dishonest because of his evidence that he was not aware that anyone was dissatisfied with the black local authority system or with the fact that rent had been increased. This is put forward upon the basis that Exhibit W32, a SASPU National of December 1984, reports that councillors resigned at the end of 1984 because they had received death threats, and on the basis that the witness Coetzer testified to the effect that some of the residents were already dissatisfied with the council system as early as October 1984.

8.9.2. The admissibility of Exhibit W32 has not been established. In any event, the alleged death threats are not necessarily indicative of dissatisfaction with the council in

Tsakane in relation to the issues about which Mkhonza was questioned. He was asked at the page cited in the Betoog if the blame for influx control and the single quarters had been placed on the council, and he said no, since influx control had been there long before the Black Local Authorities. He was asked if there was not dissatisfaction with the council as a result of its having increased the rents, and he said that the rent had not been increased. This criticism is therefore without substance

- 8.9.3. Reliance on the evidence of the witness Coetzer is also misleading. The evidence says 'Ek kan miskien nie namens die hele Oosrand praat nie, maar in Tsakane as sulks was daar wel kritiek deur 'n gedeelte van die gemeenskap'.

Coetzer: Vol 117 p5831 lines 28 - 30

There is nothing to suggest that this criticism was directed to influx control or increased rents,

which were the only two issues canvassed with Mkhonza in this context.

Mkhonza: Vol 399 p23222 line 12 - p23223
line 3

8.9.4. He is also criticised in paragraph 3.1.4 of the Betoog (page 924) for having become involved in the squatter issues of Silverton, when he himself lived in a house and not with the squatters. He indicated in his evidence-in-chief how he came to be involved in the issue. He himself had stood for the council and obviously took an interest in civic issues. No point was made of this in cross-examination and it provides no basis for discrediting his evidence. The same applies to his role as speaker on various occasions: he was apparently a prominent member of the Tsakane community, and one who would be expected to speak on public occasions.

8.9.5. He is also criticised on the basis that he finds it difficult to

explain why COSAS and TSAYCO were involved in the arrangements for the funeral of the hostel dwellers, and it is said that he was not open to the Court about why this had happened. When the reference given by the State is followed up, it becomes clear that Mr Mkhonza says that these organisations were chosen because they existed as organisations in the community. The only suggestion to the contrary put by the State to the witness was that a COSAS member may well have been one of the people buried. He rejected this suggestion. The submission is that this criticism has no foundation.

Betoog: p932 para 3.1.2.3

8.9.6. It is further suggested that Mkhonza was evasive about those speakers who represented COSAS at the meeting. He makes it quite plain that no speakers were decided upon by name. The problem was that the youth did not attend meetings of the committee regularly. He also said that speakers spoke at the funeral

without giving their names and that he knew them by sight. There is nothing evasive about this.

Betoog: p932 para 3.1.2.4

8.9.7. It is also contended that Mkhonza avoided questions concerning the hostel dwellers' and residents' dispute. This is not correct, and a reading of his evidence shows that he gave the Court a full picture of what had happened. Indeed it appeared from his evidence that this had nothing whatever to do with the UDF. This will be referred to later in this argument.

Betoog: p933 para 3.1.2.5

8.9.8. These are the only criticisms advanced of the witness Mkhonza. It is submitted that they are of no substance.

8.10. There is no real dispute about the evidence concerning the Homeseekers Committee. It was not put to any of the witnesses that the Homeseekers Committee had anything whatever to do with the UDF. It was further never put that the Homeseekers Committee was involved in

any way in the alleged conspiracy to overthrow the State by violence. The State has quite clearly failed to establish the allegation that the UDF caused violence and damage in Tsakane through the ad hoc Homeseekers Committee of Silverton.

9. The School Situation: 4 October 1984 and following

9.1. The State led no evidence about precisely how the trouble at the school started. It has contented itself during its case with the generalisation that COSAS organised and was active in the area.

9.2. The defence called evidence on this issue. The witness Mr Maseko said that he was at school on 4 October 1984, his attention and that of his classmates was attracted by a hippo which fired teargas into the school ground at a stage when nothing unusual was happening there. All the scholars went out to look at the teargas can. A girl fell and others went to help. The pupils then left the school.

Maseko: Vol 397 p23091 line 28 - p23094
line 9

He went to school the next day (late) and learnt that Mr V Diale had been killed on the

previous day.

Maseko: Vol 397 p23094 - p23096

He attended school for a few days and thereafter decided not to return.

Maseko: Vol 398 p23096 line 25 - p23097 line 18

He went back to school at the end of October but left school because they decided that they would not be able to write matriculation examinations at the end of that year.

Maseko: Vol 398 p23099 - p23100

He went back to school during January 1985. It is clear that there was a problem about the fact that the matriculants of the previous year were not allowed to study at that school. However, it is common cause that these problems were resolved sometime towards the end of January and that he then returned to school.

Maseko: Vol 398 p23100 - p23102

- 9.3. It is clear from his evidence that COSAS had nothing whatever to do with the troubles at the schools, and that the troubles at the schools were over by the end of January 1985.

- 9.4. The witness Maseko also gave evidence about a COSAS meeting during January 1985 to which he went. The meeting was chaired by a Doctor Mahlangu who said that COSAS was an organisation solely for students and seeing that there were problems at the school, COSAS could solve the problems. Twelve people were elected to a committee. This was apparently the foundation of the COSAS branch in Tsakane.
- Maseko: Vol 397 p23103 - p23104

The criticism of Mkhonza's evidence as to the date of the establishment of COSAS and TSYCO branches in Tsakane in paragraph 1.1.9 (Betoog page 917) is not of any significance. Mkhonza states clearly that his information was based on hearsay, and indicated uncertainly as to the exact date by saying first 'February/March se tyd' and later in relation to the February/March date, 'Ja, daar rond'.

Mkhonza: Vol 399 p23217 lines 20 - 29

- 9.5. Certain criticisms are levelled by the State at the evidence of Maseko.

9.5.1. First, there is criticism that his evidence that there was not a COSAS branch in Tsakane before January 1985 clashed with what was put to a State witness in cross-examination.

An analysis of the relevant passage at Vol 102 page 5086 of the record reveals no such clash. The cross-examiner put to the witness Sijadi the following: 'Do you agree that COSAS and TSYCO were youth organisations in your community from 1984/1985? Sorry, '85. Not '84 just '85'.

To which the witness answered: 'Yes, I do agree'.

Sijadi: Vol 102 p5086 lines 14 - 17

On the same page it was put to the witness that up to January/February he was a member of both COSAS and the Youth Club, to which the witness agreed. This, in the context of the passage previously cited, is consistent with COSAS having established a branch in Tsakane in January 1985, and the witness having been a member of it for a month or two after its establishment.

In any event, it does not matter precisely when the COSAS branch was formed. It is clear from the State's own evidence that the COSAS

branch was established only after December 1984. This was some months after the trouble began.

Betoog: p945 paras 6.7.8 and 6.7.9

9.5.2. In paragraph 6.7.10 of the Betoog (page 956) a passage is cited (out of context) from Maseko's evidence. If the whole page is read then whatever may be felt about the conduct of the scholars involved in that incident, it reveals no criticism of Maseko as a witness.

In relation to this evidence, it is emphasised that no violence was used in asking the principal to leave the school. It is further pointed out that in re-examination, it was clear that the principal returned to the school towards the end of January 1984, after problems had been resolved and without any police escort.

Maseko: Vol 398 p23159 lines 8 - 30

Furthermore, it is submitted that the fact that witness gave evidence of this event and the way in which

he gave his evidence shows that he is frank witness.

9.6. It is common cause on all the evidence relating to the school situation, that the troubles at the schools in Tsakane began during October 1984 and were resolved by January 1985. In these circumstances, the school troubles are not shown to have been the cause the violence which lasted over a much more extended period.

9.7. Moreover, there is no evidence to link COSAS with the violence that did occur, or to show that the UDF was responsible (through COSAS) for such violence.

10. The Presence of the UDF in Tsakane

10.1. It is clear that the UDF had no meaningful presence in Tsakane.

10.2. The State relies on the UDF banners displayed at the Raditsela funeral and the mass funerals. That there was such a banner is not disputed. It is clear, however, that the UDF had no other presence at the Raditsela funeral apart from its banner. It cannot be suggested that the presence of the banner itself was a cause of any violence.

- 10.3. It was common cause that the UDF had no representation whatsoever on the Crisis Committee which organised the funeral.

Mkhonza: Vol 398 p23177 - p23180

It is also clear from Mr Mkhonza's account of the trouble between hostel dwellers and residents that this had nothing whatever to do with the UDF. This violence, together with that following upon the funerals, has not been shown in any way to have been caused by the UDF.

Mkhonza: Vol 398 p23180 line 13 - p23182
line 11

- 10.4. The State cites a passage from Exhibit C133 in relation to the events in Tsakane. This is described as a UDF (DESCOM) attack on the government. It is not shown that the UDF had anything to do with the preparation of this document. In any event the passage cited is not relevant to the allegation that the UDF caused violence in Tsakane.

Betoog: p937 para 5.2.3.2

- 10.5. There was no evidence that the UDF was involved in organising the funeral in October 1984, nor was there any evidence that it had any other presence at the funeral.

11. Other possible causes of violence

11.1. The provocative actions of board officials during the period January to February 1985 must have made the authorities particularly unpopular and could have given rise to acts of violence from people who were thoroughly disgruntled with the attitude of the authorities. Reference is here made to events already referred to namely, the pressure exercised on tenants to get them to move during January 1985, the pre-dawn raids on 12 February 1985 despite an undertaking given on 29 January 1985 (only two weeks earlier) that this would not happen and the demolition of shacks on 12 February 1985.

11.2. There is also the evidence referred to in the Betoog of teargas having been used by the police without justification at the funeral of Vusi Diale on 13 October 1984. Teargas was also used at his house thereafter.

The State has relied on a number of contradictions amongst the witnesses themselves in regard to the use of teargas at the funeral. It is submitted that in assessing these various contradictions, regard should be had to the fact that the contradictions are relatively minor, that some

of the people who gave evidence in connection with this funeral were unsophisticated, that one of the people involved was the father of the deceased who would obviously have been distressed and inattentive to the sort of detail with which he was taxed in cross-examination, that different people would have seen things from a different perspective depending on when they arrived at the crematorium and where they were.

However, the fact is that there was no denial that the police used teargas at the cemetery on this occasion. This was admitted, and it was put to Maseko that police fired teargas at the funeral goers because they made trouble.

Maseko: Vol 397 p23134 lines 20 - 25

This is significant in the light of the fact that the witness Nkosi made no reference whatsoever to any trouble at the funeral itself except for the violence which ensued after the funeral had finished.

Nkosi: Vol 122 p6100

Account must also be taken of the fact that Mr Mkhonza's evidence to the effect that he did not stay long at the house of the deceased on this day because he took certain people for

treatment at the hospital (most of these people had been injured by the police), is not disputed.

Mkhonza: Vol 398 p23177 lines 5 - 11

12. The absence of correlation between the violence and the activities of organisations

Even if it had been shown that COSAS was active in the area and had been responsible for the school boycotts in Tsakane these school boycotts were over by the end of January 1985. No linkage has been shown between the boycotts and the violence which occurred during March/April 1985. Nor has any linkage been established between COSAS activities (if any) and the UDF.

It is clear that the Silverton Homeseekers Committee was very active during the period January to March 1985. However, none of their activity has been shown to be a cause of the violence in March/April 1985; nor has there been established any linkage between the UDF and this committee.

13. Incorrect Summarising of the Evidence

13.1. The State says that according to the evidence of the State witness, COSAS was 'aktief bedrywig' in Tsakane.

Betoog: p916 para 1.1.5

However, the evidence is that COSAS was simply active in the area.

Rossouw: Vol 118 5876 line 28 - 5877 line 2

- 13.2. Some reliance is placed by the State on the evidence of Sgt Coetzer to the effect that during the period October 1984 to July 1985, he saw placards which attacked the community councils and councillors and called the system a puppet system.

Betoog: p923 para 2.6

When the reference given by the State is followed up, it becomes clear that the evidence relates only to attacks against the council system, and that the passage says nothing whatsoever about attacks against councillors. Secondly, the witness's evidence is that he saw 'sommige plakate'.

Accordingly, witnesses who say they did not see these cannot be criticised.

- 13.3. The State argument is to the effect that the defence witness, Mr Mkhonza arranged the funeral, arranged the speakers, and 'tree self op as seremonie meester'.

Betoog: p932 para 3.1.2.1

The evidence is that when he was asked why he was certain about the date of the funeral, he said that it was because he had made arrangements with the undertaker concerning the funeral.

Mkhonza: Vol 399 p23218 lines 12 - 15

In relation to speakers the passage reads as follows: 'Jy het deel gehad in die besluit wie gaan die sprekers wees; Ja dit is so'. This is a far cry from arranging speakers.

Mkhonza: Vol 399 p23219 lines 18 - 19

- 13.4. There is no basis for the State's suggestion that the person named by Sgt Coetzer as Lawrence Mkhonza is a brother of the witness who gave evidence. Reference to the evidence will show that Lawrence Mkhonza is the witness himself.

Betoog: p943 para 6.6

Mkhonza: Vol 398 p23160 line 2

- 13.5. The State relies on the evidence of Labuschagne to the effect that during the period January 1985 to July 1985, various road obstructions were put up in Tsakane consisting of wrecks of motor vehicles, burning tyres, stones, etc.

Betoog: p939 para 5.2.5.2

It is correct that Labuschagne said that he saw road obstructions at various times during this period, but the evidence is not clear about precisely when and how often these were seen.

The State also ignores the evidence of Rossouw which contradicts that of the witness Labuschagne. Rossouw says that he saw road obstructions on two occasions: once during October 1984 and once again during March 1985. According to Rossouw, the obstructions consisted only of old motor vehicles and stones.

Rossouw: Vol 118 p5861 lines 15 - 24

14.

14.1. Reliance is also placed on C110 which has previously been dealt with. Page 16 of the document simply records that councillors resigned in Tsakane. On page 22, the issues in Tsakane are described as rent and shacks. No details are given of these issues and there is no indication of any organising around these issues. The conclusion that councillors resigned around these issues is unjustified.

Betoog: p922 para 2.1

14.2. Certain documents are relied upon to establish facts concerning the stayaway. There is no evidence that the UDF was responsible for the stayaway which does not form part of the indictment. This matter has already been argued.

15. It is submitted that the State has failed to prove the allegations made by it in regard to the UDF's responsibility for violence and damage in Tsakane.

AREA NO 15 - ATTERIDGEVILLE (betoog 947 -972)

1. It is alleged that since August 1984 to February 1985, ASRO organised and intimidation, revolt and violence took place.

2. The State evidence is as follows:

2.1. General evidence was led concerning incidents of unrest in Saulsville/Atteridgeville in 1984 - 1985. No individuals directly involved in these incidents or their affiliations are identified by the witness.

Du Toit: Vol 98 p4812 line 6 - p4814 line 10

2.2. The witness stated that there were attacks on the homes of councillors in the early hours of 28 November 1984.

Du Toit: Vol 98 p4813 line 23 - p4814 line 11

2.3. He stated that at COSAS and ASRO meetings in November 1984 councillors were labelled 'puppets of the white regime'. The witness has, however, no personal knowledge of the meetings to which he refers.

Du Toit: Vol 98 p4816 line 15 and p4847 lines 3 - 10

2.4. Evidence is given in connection with a meeting allegedly held by ASRO on 4 November 1984.

Du Toit: Vol 98 p4807 line 25 - p 4808 line 28

2.5. The witness alleges that at this meeting Dr Nkomo said 'dat daar druk op die swart raadslede uitgevoer moet word om te bedank'. Dr Nkomo is also alleged to have said that there should be sympathy with the pupils who were boycotting schools until their demands have been met.

Vol 98 p4808 lines 22 - 23

2.6. In cross-examination the witness would not agree that Dr Nkomo had not said that scholars should boycott classes, but conceded that Dr Nkomo might have said 'we call upon councillors to resign'.

Vol 98 p4845 lines 8 - 11

2.7. Furthermore, the witness was only able to testify to those parts of the speech which were in English. The speech began in English and then changed to a black language.

Du Toit: Vol 98 p4808 lines 16 - 28

3. The defence set out to prove that, whichever other organisations may have been active in the area, ASRO certainly had no policy of violence and did not give rise to any as alleged. Accordingly, the evidence of the chairman of ASRO Dr Nkomo was called.

4. The dispute of fact between Dr Nkomo and W/O Du Toit is limited to the occurrences on 4 November 1984. It is common cause that Dr Nkomo chaired this meeting and spoke thereat.
 - 4.1. Dr Nkomo gave evidence to the effect that he was chairman at this meeting. A Rev Mosomo, a member of the executive of ASRO reported back concerning the success achieved in connection with the rent issue. Dr Nkomo made it quite clear that he never encouraged violence either at this meeting or at any other meeting. He said that it goes against the grain of ASRO to be violent. He made it quite plain that he did not encourage school boycotts and that his own personal stand was that children should go to school. He insisted that he was unable to talk about school boycotts because of a campaign of vilification conducted against him. This campaign arose out of the fact that his children attended private schools. The allegation apparently was that he encouraged

his children to attend private schools while discouraging other children from attending school at all. He said this was an untruthful allegation, and that it would have been 'absolutely reprehensibly immoral' for him to encourage boycotts of schools whilst his own children were attending school.

Nkomo: Vol 382 p22158 line 30 - p22161 line 6

4.2. There are certain important criticisms of the evidence of W/O Du Toit

4.2.1. In the first place, the circumstances in which he 'monitored' this meeting were such as to make it difficult for him to have followed the proceedings closely. He was not in the hall itself but stood outside at the window. Furthermore, as a white security policeman, he conceded that his presence attracted attention.

Du Toit: Vol 98 p4806 lines 10 - 15

Du Toit: Vol 98 p4843 lines 24 - 18

4.2.2. The witness was not sure who was the chairman of the meeting and thought that Nkomo might have been chairman.

Du Toit: Vol 89 p4844 lines 20 - 21

4.2.3. By reason of the fact that Nkomo changed to a black language, he is obviously unable to give a complete account of the speech. It would be extremely dangerous to rely only upon the portion of the speech which was in English. Dr Nkomo himself gives a full account of what he said.

4.2.4. Although du Toit said he regarded the boycott situation as sensitive, and though, on his version, there had been agitation against the councillors at that stage, he says he did not regard the information received by him as important. It is submitted that this is inherently improbable.

It is further strange that the witness did not make a note of what had been said particularly if it is borne in mind that the speaker was the chairperson of ASRO. Finally,

no written report was made of this statement nor was any written report submitted to any superior. The witness confined himself to an oral report to his section head.

Du Toit: Vol 98 p4844 line 22 - p4845 line 5

5. It is therefore not surprising (bearing in mind all the difficulties in this evidence) that it was not even put to Dr Nkomo that he had encouraged school boycotts, and that his denial was not challenged by the State in cross-examination.
6. Accordingly, it is submitted that Dr Nkomo's version of events at this meeting should be accepted. He was an excellent witness whose evidence is not criticised by the State at all.
7. The State deals with this matter as if Du Toit was the only witness who testified. It does not refer to the concession made by the witness that Dr Nkomo might have said 'we call upon councillors to resign'. Nor is there any reference to the fact that Dr Nkomo gave evidence denying that he referred to the school boycotts. The State contends that the document AAW5 supports its version. However this is not borne out by the document. Exhibit AAW5 is simply the pamphlet

advertising the meeting. It states that ASRRO was responsible for the lowering of the rent and successful concerning the removal of people from a particular area. The public are invited to the meeting to hear for themselves. This cannot be relied upon as providing evidence as to what was actually said at the meeting.

Betoog: p957 para 3

8. The rest of Dr Nkomo's evidence is not disputed by any other evidence. In the circumstances, it is submitted that it should be believed.

9. Dr Nkomo gives a clear account of how and in what circumstances he learnt about the new constitution and the tri-cameral parliament. He says was concerned about the new constitution because there was no consultation, because it would bring about no change, because African people were excluded and because he thought that the new constitution entrenched racism. He was convinced that the Black Local Authorities Act was imposed without consultation and gave to black people what he called a substitute vote. He said that black people would regard this new constitution as a slap in the face.

Nkomo: Vol 382 p22122 line 5 - p22126 line 18

10. He then gives a clear account of the history behind the formation of ASRO. He says he spoke to friends about the new constitution and the Black Local Authorities Act because of his concern. During these discussions, he came to the conclusion that the only way in which people could protest effectively against this new dispensation was by not going to the polls during the Black Local Authority elections. An ad hoc committee was formed and held many meetings in various sections of Atteridgeville. Here, the Black Local Authorities Act was explained. It was thereafter decided to have one large rally on 23 October 1984.

Nkomo: vol 382 p22126 line 19 - 22129 line 27

11. It is clear that the UDF had nothing whatever to do with these initiatives. Indeed, the witness says that the UDF was not even mentioned at these meetings. This evidence is common cause.

Nkomo: Vol 382 p22163 lines 15 - 17

12. It is common cause that the ad hoc committee was launched on 23 October 1983. When Dr Motlana was chosen to speak at this meeting, the witness was not even aware that he (Dr Motlana) was associated with the UDF.

Nkomo: Vol 382 p22133 line 15 - 22134 line 24

13. Dr Nkomo's account of this meeting is not disputed. He says that this meeting decided to further the anti-election campaign and the ad hoc committee was launched. It was also decided that the community should not vote at this meeting. It is not disputed that money was collected at this meeting to run the campaign. Evidence of this meeting must be seen side by side with the evidence already referred to to the effect that Dr Nkomo made it quite clear that there was no violence at any of the meetings and that ASRO was against violence.

Nkomo: Vol 382 p22134 line 26 - p22136 line 22

14. The witness makes it perfectly clear that the UDF gave to the association no assistance whatsoever up to the time of this meeting.

Nkomo: Vol 382 p22136 lines 23 - 29

15. The witness gives a clear and concise account of the campaign against the Black Local Authority election. The campaign included house to house visits. He did not learn this technique from the UDF but says that it is commonsense. The State's contention that the method of using house to house visits for the dissemination of ideas is the preserve of the UDF is fallacious. The UDF did not assist in the campaign until the very end when certain posters and banners

were brought. These were provided by the UDF.

Nkomo: Vol 382 p22137 line 11 - p22139 line 19

16. His evidence is also not disputed that there was no violence on election day or associated with the campaign. He says that on election day, members of the organisations stood at different points on the township holding up banners intended to dissuade people from voting. He also says that the voting was monitored. His evidence that there was no intimidation remains unchallenged.

Nkomo: Vol 382 22139 line 19 - p22140 line 21

17. During January 1984, there was a report back meeting in connection with the elections. At this meeting, it was decided that the ad hoc committee should formalise itself into some sort of civic association. In his own mind, the witness associated the civic association as a body which would look after the interests of the people. It was more like a ratepayers association which would exert pressure against the town council to achieve improvements for the people.

Nkomo: p382 p22140 line 22 - p22143 line 1

18. He gives full details (which are not disputed) of a meeting during February 1984 at which ASRO was launched and at which a decision was taken to

affiliate to the UDF. The witness was appointed chairman of the organisation. Dr Nkomo himself had some reservations about whether or not the body should be affiliated to the UDF but decided not to express them when the affiliation proposal was made. The witness and other members of his committee studied the UDF constitution and Dr Nkomo was personally impressed with the notion that organisations which affiliate to the UDF would remain independent. However, he says that although there was no legal obligation on the organisation to carry out the campaigns of the UDF, he himself considered that there was a moral obligation. It is common cause that the act of affiliation took place after the meeting during February 1983.

Nkomo: Vol 382 p22143 line2 - 22148 line 10

19. It is important to note that although councillors had business in Atteridgeville, there were no boycotts of the businesses of councillors in this area. This evidence is not contradicted by any other evidence.

Nkomo: Vol 382 p22144 line 20 - p22145 line 17

20. The nature of ASRO as an organisation, and in particular, the question of whether it intended to bring about violent change or not can be determined from the way in which the rent increase and other

issues were handled by this organisation. All these matters are common cause.

20.1. Dr Nkomo initially heard about the rent increase when he received the copy of a notice Exhibit DA125. This notice confirmed his suspicion because it said inter alia that the reason for the rent increase was that the introduction of the town council had resulted in increased expenditure. ASRO held mass meetings in connection with this rent increase during the period June/July 1984 and, in accordance with decisions taken at this meeting, the matter was taken up with the lawyers who wrote to the town council by letter dated 30 July 1984 (Exhibit DA126). The response was dated 7 August 1984 and indicated that rent would not be increased at that stage. (See Exhibit DA127)

Nkomo: Vol 382 p22150 line 7 - 22153 line 22

20.2. He then saw a notice in a newspaper indicating that rent was going to be increased. DA128 dated 21 September 1984 was written motivating that the rent should not be increased.

20.3. It is very important to note the attitude of ASRO to the community council. The letter ends 'Yours respectfully'.

20.4. This letter was written by ASRO at a time when the Vaal uprising had already occurred. The terms of the letter are polite.

Nkomo: Vol 382 p22153 line 23 - p22156 8

20.5. The meeting of 4 November 1984 was called to celebrate the fact that the rent had not been increased. This meeting has already been referred to.

20.6. Although the witness did not go to the meeting on 17 February 1985, he was involved in the planning of this meeting and knew that it was to be held in the context of a possible rent increase on 1 March 1985. His undisputed evidence is that the position of the committee was that only the increase should not be paid. However, the people at the mass meeting overruled the committee and came to the conclusion that the whole of the rent ought not to be paid. It is also not disputed that the committee thereafter decided to take steps to persuade the people that this decision not to pay had been incorrect and the result of anger.

Nkomo: Vol 382 p22162 lines 7 - 30

20.7. The State deals with this meeting as if there is no other evidence in connection with it but that of the State witness. It assumes quite wrongly that the meeting took place as advertised and that certain UDF speakers including Accused No 19 spoke at the meeting. It is true that the pamphlet AAW6 refers to the fact that there would be these speakers. However, this witness was not at the meeting and cannot say whether the speakers were present or not.

Betooq: p958 para 5

20.8. Dr Nkomo says further (and this too is not disputed) that the meeting of 17 March 1985 was called by the committee after it had been thought by the committee that the residents had been persuaded, as a result of the steps initiated by it, that the decision not to pay the whole of the rent had been incorrect. However, it transpired that the residents present at the meeting of 17 March 1985 were equally divided on this issue. The matter was finally resolved in May 1985 as a result of the work of ASRO and the people agreed to pay the rent.

Nkomo: Vol 382 p22163 line 1 - p22166 line 4

20.9. The State deals with the meeting of 17 March 1985 and with Exhibit AAW8 in an effort to imply that this was a meeting called in order to persuade people not to pay the rent. This is obviously incorrect.

Betoog: p958 para 6

20.10. It is submitted that the methods employed by ASRO show a commitment to peaceful methods of resolving problems. There is nothing to suggest that violence was ever considered as an option. On the contrary, the evidence points the other way.

21. It is clear from Dr Nkomo's evidence (and it is submitted common cause) that attacks were not limited to the property of councillors or government officials or schools. Dr Nkomo gives evidence of an arson attack on his property on 15 May 1985, of his surgery being burnt on 27 May 1985 and an attack on his second surgery on 23 October 1985.

22. For the sake of convenience, certain submissions made during oral argument concerning Dr Nkomo's activities in the education sphere are repeated here:

Nkomo: Vol 382 p22166 line 6 - 22168 line 13

22.1. Dr Nkomo testified that he got involved in the schools' problems in Atteridgeville, two or three days before the funeral of Emma Sathege (which was on 18 February 1984). He attended a 'peace meeting' at the Roman Catholic Church.

Nkomo: Vol 382 p22168 lines 14 - 29

22.2. It was a public meeting where parents, teachers, pupils and community organisations were present.

Nkomo: Vol 382 p22170 lines 18 - 21

22.3. Later in the week on 17 February 1984 another meeting was convened by Bishop Tutu which was attended, inter alia, by representatives of the Department of Education and Training, namely, inspectors. Accused No 21 also spoke at this meeting in response to a statement by one of the teachers that they were not prepared to be dictated to by students. He stated that this was not the purpose of the meeting. 'The purpose of the meeting was just to try and create calm and communication between students and parents and teachers. It was not that one group should dictate to the other'.

Chikane: Vol 300 p16997 line 15 - p17000 line 1

22.4. It was at this meeting that Chikane was appointed to be master of ceremonies at the funeral of Emma Sathège.

Chikane: Vol 300 p1700 lines 7 - 13

22.5. Dr Nkomo also attended this meeting. He did so at the request of a Mr Felstead, the regional director of the Department of Education and Training. The meeting was held with the authority of the Minister of Education and Training who had consulted with Bishop Tutu and Rev Stanley Magoba.

Nkomo: Vol 382 p22170 line 24 - p22172 line 9

22.6. Nkomo stated that Chikane was appointed master of ceremonies of the funeral because 'the meeting was of the mind that he would be able to do this as he had participated in trying to get the schools to operate normally and he was a high profile person because of the nature of the position he held' as the Transvaal secretary of the UDF.

Nkomo: Vol 383 p22173 line 21 - p22174 line 3

Nkomo: Vol 383 p22216 lines 25 - 29

23. Dr Nkomo says (and this evidence is not disputed at all) that he did not act in any conspiracy with the UDF or with the South African Communist Party or with the African National Congress to overthrow the State by violence. He makes it quite plain that he has no access to African National Congress literature.

Nkomo: Vol 382 p22179 lines 7 - 17

24. He says that he saw nothing about the formation of a co-ordinating committee in connection with the elections but that this committee certainly did not organise in the area in which ASRO worked.

Nkomo: Vol 383 p22188 line 10 - p22190 line 11

25. He says also that he knows nothing about an anti-community council campaign in the hostel. The article in W23 was thereafter put to him. The admissibility of this document has not been established by the State. The article simply talks about what is to happen and not what in fact happened. In any event the facts set out in the article cannot be regarded as true (as has already been argued).

Nkomo: Vol 383 p22190 line 12 - p22193 line 3

26. As far as the attitude to councillors is concerned, the witness makes it quite clear that ASRO is sympathetic with the call for the resignation of

councillors and that such calls had been made in press cuttings and at public meetings. However he emphasises that this must be achieved by persuasion and reason.

Nkomo: Vol 383 p22220 line 4 - p22223 line 23

27. He conceded, that as far as he was concerned, the main purpose of ASRO, as part of the UDF, was to mobilise and organise the people to take part in the freedom struggle. However, he strenuously denied that use was made of issues like the constitution, the Black Local Authorities, rent, and so on. He said that he would not do anything to disadvantage the community. He also makes it plain that the public image of the organisation could be improved and should be improved without taking advantage of the misery of the people. ASRO informs people because informed people can bring about change in the government of the day.

Nkomo: Vol 384 p22256 line 2 - 22259 line 20

28. The State in its Betoog has not addressed itself properly to the case it undertook to prove or to the evidence referred to above. Rather, it has sought to make general and largely unsubstantiated submissions, the more important of which are dealt with below.

28.1. In paragraph 1 of its argument, it says that a number of organisations (ASRO SAYCO, COSAS and

the Pretoria UDF area committee) were active in this area and prepared the people for active and violent participation in the freedom struggle. No attempt is made to substantiate this sweeping generalisation. More importantly, however, is the fact that the allegation in the indictment attributes the violence in the area to ASRO. This was the case which the accused were called upon to meet.

28.2. The statement that Accused No 21 was appointed by the UDF as the UDF organiser for the Northern Transvaal and that he contributed much to the activities (presumably the violent activities) in this area are both incorrect. There is no evidence that Mr Chikane, Accused No 21 was appointed in this capacity. In addition, there is no evidence of his contribution in this area to any violent activity whatsoever.

28.3. The State argues that a number of people from the UDF's highest hierarchy ('hoogste hierargie') made important contributions in this area. It is necessary to deal separately with each of the people who, according to the

State, took part in activities in this area.

Betoog: p947 para 1

28.3.1. Reference is first made to Accused No 19. The reference is to Dr Nkomo's evidence where he says he thinks that Mr Molefe (Accused No 19) spoke at a meeting during February. However, in re-examination the witness makes it quite clear that he was not present at the meeting at all. This evidence is accordingly hearsay and cannot be relied upon. No reference is made to any evidence of this issue by Accused No 19.

Nkomo: Vol 384 p22260 lines 26 - 30

28.3.2. Accused No 20 is said to have been involved in this area and reference is made simply to Exhibit AAW. Since no number is given to this exhibit, it is not possible to ascertain what the State relies on. No reference is made to any evidence on this issue by Accused No 20.

28.3.3. Reference is then made to a Mr D Mohape. There is no evidence that he is from the highest hierarchy of the UDF. In addition, the exhibit referred to indicates that he was going to be asked to speak at a meeting in Pretoria which was to take place on 16 December. Exhibit S17 are the minutes of a meeting held on 7 December 1984. It must be pointed out that according to this exhibit, the Pretoria area committee operates sporadically. In any event, there is nothing to suggest that this person took part in activities in Pretoria.

28.3.4. The comments made in respect of Accused No 19 in para 28.3.1 above apply equally to the Rev Mkhathwa.

28.3.5. The reference to Dr Motlana having participated in activities (presumably including violent activities) in this area is misleading. In the first place, the passage referred to by the State

makes it quite clear that Dr Motlana spoke at a meeting in Pretoria on 23 October 1983. The passage indicates quite clearly that he was not chosen because he was part of the UDF. His connection with the UDF was not known to the witness at the time when he was chosen. He cannot be regarded as being part of the UDF's 'highest hierarchy'. Finally, the period relevant to the allegations in respect of this area begins in August 1984. Dr Motlana's speaking in Pretoria falls way outside this period. No reference is made to Dr Motlana's own evidence.

28.3.6. The evidence relied upon by the State in support of the proposition that Ismail Mohammed of the UDF made an important contribution to activities in this area is that of a meeting during February 1984. Details of this contribution are contained in the passage already referred to in which he called upon the students to return to school.

It must be pointed out that the contribution of Prof Mohammed, too, strictly speaking falls outside the period relied upon by the State in respect of this area.

28.3.7. Messrs Frank Chikane and Deacon Mathe were, according to the evidence relied upon by the State, present at an education charter meeting in Pretoria during October 1984. This meeting has not been shown to have had anything whatever to do with the violence in the area. Furthermore, it is not clear how Mr Mathe could be regarded as being from the highest hierarchy of the UDF.

28.3.8. The reference to Amanda Kwadi is incorrect. In the evidence relied upon by the State, Dr Nkomos makes it quite clear that he does not know whether Amanda Kwadi was present or not.

Nkomo: Vol 383 p22211 lines 5 - 7

28.4. The 'contributions' of the nine people cited by the State from the 'highest hierarchy' of the UDF in the main consists of mere presence at meetings which are not shown to be connected in any way with the violence in the area.

28.5. Paragraph 2 of the Betoog (on p948) is intended to show that various methods were used to involve the masses of the people in activities which would necessarily lead to violence. However, the paragraph together with the exhibits referred to therein do not justify this at all. The argument also ignores the evidence of Dr Nkomo already referred to the effect that the committee of ASRO wanted to prevent a total rent boycott. Some of the inaccuracies in this paragraph are now referred to.

It is argued that house visits by activists was a method used to incite and instigate the masses to action which would lead to violence. It is then argued by the State that Dr Nkomo admitted that in house meetings, the Black Local Authorities Act and the constitution were used to mobilise and

organise the people. If it is intended by the State to convey that Dr Nkomo's admission must be understood as a reference to violent action, no such concession was made at all.

- 28.6. It is argued that issues ('knelpunte') identical with those of the UDF were identified and used. This is in the section of the Betoog headed 'Skakeling met UDF'. Several improvised references to the record are given from which it emerges that ASRO was, inter alia, concerned with the 'tremendous backlog of housing', the 'state of the roads', education, urban residential rights, rent increases, service charges and the cost of living generally. These are issues which cut across the entire black community and would be relevant to any civic organisation, and cannot be equated with concerns exclusive to the UDF or any other organisation.

Betoog: p950 para 6(1)

- 28.7. It is stated that Deacon Mathe of the Executive Committee of UDF Transvaal was active in the area:
- 28.7.1. Deacon Mathe was not a member of the executive committee. He is admitted

to be a co-ordinator of the National Youth Organisation and International Youth Year. (Exhibit AAS6 p19)

28.7.2. The reference to the record does not in any way reflect that Mathe was active in the area. Similarly, the suggestion that Cedric Kekane was 'active' is also not borne out by the references to the record cited by the State. They only show that he was a member of SAYO and AZASO.

Betoog: p951 sub-paras (3) and (4)

28.8. Reliance is placed upon the concession by Dr Nkomo to the effect that the main purpose of ASRO was to organise and mobilise the people to participate in the freedom struggle. This reliance is unfair in the light of the passage which immediately follows this and reads as follows: 'My position on the situation of the pride of the people was that, while I stood opposed to the Black Local Authorities Act and would do anything lawfully to oppose the implementation of the Black Local Authorities Act, I would not do it at the expense of the people. This is why

therefore while fighting the council system it was our obligation, my obligation to see to it that the way it was implemented did not increase the disadvantage of the people'.

Betoog: p951 sub-para (7)

Nkomo: Vol 384 p2256 lines 14 - 22

28.9. Reliance is also placed on the evidence of the witness Du Toit to the effect that Mr Chikane (Accused No 21) admitted that he had been appointed by the UDF to further the school boycotts in this area. For the sake of convenience the submissions already made regarding this evidence are repeated here.

28.10. The State called W/O du Toit and Capt Loots to testify to the fact that the UDF was in favour of school boycotts to force the government to meet the students' demands.

28.11. W/O du Toit gave evidence to the following effect:

28.11.1. He called Chikane for an interview in consequence of the unrest in the schools.

Du Toit: Vol 98 p4816 lines 7 - 11

28.11.2. He testified that Chikane informed him that he, (Chikane) had been appointed as an organiser of the UDF in Pretoria and as an organiser he would encourage pupils to boycott classes until their demands were satisfied.

Du Toit: Vol 98 p4816 lines 15 - 18

28.11.3. This interview was conducted in the course of 1983 after the formation of the UDF. It could have been in September but the witness could not be certain.

Du Toit: Vol 98 p4817 lines 10 - 23

28.11.4. Chimane attended the interview voluntarily. He was not arrested.

Du Toit: Vol 98 p4819 lines 19 - 20 and p484 lines 3 - 30

28.11.5. Du Toit never made a written report regarding his interview with Chikane.

Du Toit: Vol 98 p4818 lines 5 - 8

28.12. Captain Loots,, a captain in the security police and Du Toit's superior testified to the following effect:

28.12.1. In the presence of Chikane, Du Toit reported to Loots that Chikane had said that he was an organiser for the UDF, concentrating on black education and that through the medium of class or school boycotts it would be attempted to compel the government to look at the education system.

Loots: Vol 105 p5204 line 30 - p5205 line 7

28.12.2. As at that stage no action against Chikane was being contemplated.

Loots: Vol 105 p6206 lines 30 - 31

28.12.3. Loots kept no notes of the interview.

Loots: Vol 105 p5204 lines 2 - 5 and p5215
lines 6 - 12

28.12.4. Loots said to Chikane that certain information had reached his ears that was unconfirmed, but should it turn out to be correct, Chikane

could expect to hear from him if he broke any law or placed order in jeopardy.

Loots: Vol 105 p5205 lines 18 - 23 and p5215
lines 23 - 30

28.12.5. The 'admission' was not made to Loots. It was made to Du Toit who conveyed it to Loots.

Loots: Vol 105 p5214 lines 26 - 31

28.12.6. Loots monitored UDF publications as part of his duties. He never saw a UDF publicatin in which the UDF threatened the government with class boycotts.

Loots: Vol 105 p5219 lines 22 - 3-

28.12.7. Thus, the 'admission' by Chikane was particularly important.

Loots: Vol 105 p5220 line 31 - p5221 line 1

28.12.8. Although he knew that Chikane was one of the accused in the trial, and although he had made this important 'admission' Loots did nothing.

Loats: Vol 105 p5220 lines 10 - 16

28.12.9. When asked why he had not done anything, he first said that he had wished to protect his sources of information. When it was pointed out to him that it was not a question of protecting informers, since he himself could have deposed to the admission, he was unable to give any reason why he had done nothing.

Loots: Vol 105 p5220 line 17 - p5221 line 1

28.13. Chikane disputed the allegations made against him by Du Toit and Loots.

Chikane: Vol 300 p17023 line 27 - p17024 line 17

28.13.1. The evidence of Loots and Du Toit is inherently improbable. It is inconceivable that a serious allegation concerning the incitement of pupils to boycott schools did not warrant any further attention. The failure by Loots as a senior security policeman, to take notes of the serious 'admission' and his failure to pursue the matter even at a time when he knew Chikane to be charged with treason, is inexplicable.

28.13.2. Chikane's evidence which is corroborated in material respects by press cuttings as well as the evidence of Dr Nkomo was not challenged in cross-examination.

There is also an important discrepancy between the evidence of Loots and Du Toit.

28.13.3. Loots testified that the 'admission' was reported to him by Du Toit in the presence of Chikane. Yet, Du Toit makes no mention of this having happened, though he was questioned closely on the issue as to whether anybody could confirm that the admission was made. As a policeman he must have known of the importance of a report by him to Loots in Chikane's presence.

28.13.4. In chief Du Toit does not mention Loots' presence at all.

28.13.5. In cross-examination he was asked whether he and Chikane were alone.

He stated that sometimes they were alone and sometimes not because the offices are adjacent and people walk in and out.

Du Toit: Vol 98 p3817 lines 27 - 30

No mention is made of Loots.

28.13.6. He was asked whether any other person was present when the 'admission' was made. He could not remember anyone being present but said it was possible that one of the officers on duty could have been there.

Du Toit: Vol 98 p4820 lines 15 - 19

No mention is made of Loots.

28.13.7. Du Toit stated that he himself fetched Chikane from his house and took him to the office where he also spoke to Loots.

Du Toit: Vol 98 p4838 lines 4 - 7

28.13.8. He stated that it is possible that Loots asked Chikane different questions to those asked by him.

Du Toit: Vol 98 p4850 lines 24 - 25

28.13.9. Du Toit acknowledged the importance of Chikane's 'admission' with regard to the polices' future actions. He was then asked if the conversation took place in his office or Loots' office. He answered that Chikane first sat in his (Du Toit's) office and then went to Loots' office. He was specifically asked where the 'admission' was made. He stated that Chikane had said he was an organiser of the UDF in his (Du Toit's) office. He was then asked whether it was said in Loots' office. The answer was that it could also have been said there as there was a time when he (Du Toit) was not present.

Du Toit: Vol 98 p4851 line 19 - p4852 line ?

28.13.10. Had a report been made by Du Toit to Loots in the presence of Chikane one would have expected Du Toit to mention it especially when pressed in cross-examination. It is

submitted that this casts serious doubt on the veracity of the evidence.

28.14.

28.14.1. No reason was given as to why Chikane should have made such a statement to Loots and Du Toit. The evidence of Loots and Du Toit is not only inherently improbable but Chikane's conduct and the undisputed evidence concerning the UDF's attitude to the school boycott in Pretoria, is wholly inconsistent with any plan to 'encourage' students to boycott classes. Neither Du Toit nor Loots could explain why no action was taken concerning the admission of a plan to incite pupils to boycott schools, or why no report was made to superior officers or to the security police in other regions concerning such a plan. The failure by Loots as a senior security policeman to take notes of this serious admission, and his failure to pursue the matter even at a time when he

knew Chikane to be charged with treason has not been satisfactorily explained.

28.14.2. Moreover, Chikane's evidence as to his conduct in relation to the school boycott in Pretoria, corroborated in material respects by press cuttings as well as the evidence of Dr Nkomo, is inconsistent with a policy of promoting school boycotts. His evidence on this issue could not be disputed by Loots and Du Toit, and the State did not seek to lead evidence to contradict what had been put to them.

28.14.3. Both Du Toit and Loots were unable to deny the steps taken by the UDF and ASRO which were aimed at resolving the education crisis.

28.14.4. Du Toit, for example knew nothing of Chikane's appointment as master of ceremonies at the funeral of Emma Sathekge or what he said there. He

could not deny that Chikane called
for students to return to schools.

Du Toit: Vol 98 p4837lines 12 - 28

28.14.5. Loots was similarly ignorant of this
event and did not attend the
funeral. He too could not deny that
Chikane called for a return of
pupils to school.

Loots: Vol 105 p5225 lines 10 - 27

28.14.6. Du Toit did not know of the
existence of other committees
appointed in 1984 to get children to
return to school. He had not heard
of the 'peace committee'. He could
not deny that this had happened.

Du Toit: Vol 98 p4838 lines 15 - 30

28.14.7. Loots was similarly unaware of the
establishment of a liaison committee
of school principals and community
organisations in 1984, and could not
deny that such a committee had been
set up.

Loots: Vol 105 p5226line 25 - p5227line 20

28.14.8. Loots admitted that he had received information of a hearsay nature that the chief objective of the Mamelodi Parents Association was to get the boycotting children back to school.

Loots: Vol 105 p5224 lines 27 - 30

28.15.

28.15.1. Accused No 21 testified that in February 1984 he received a mandate to find out the facts concerning schools boycotts in Pretoria and to try 'to bring peace between teachers and students'. This followed the death of a particular student, Emma Sathekge.

Chikane: Vol 300 p16992 line 6 - p16994 line 3

28.15.2. Chikane also testified that he had seen a report in The Sowetan of 15 February 1984 in which it was stated:

'Black leaders yesterday expressed outrage at the death of a 15-year old student at a Pretoria school and have called for an urgent meeting with the

government to avert a recurrence of the 1976 unrest. Bishop Desmond Tutu, General Secretary of the South African Council of Churches (SACC) has sent a telegram to the Minister of Education and Training but would not reveal the contents of the telegram to the press. ...Mr Popo Molefe, National Secretary of the United Democratic Front (UDF) said the UDF will be sending invitations to various individuals and organisations to a meeting to discuss the incident at D H Peta High School in Atteridgeville'.

Chikane: Vol 300 p16994 line 4 - p16995 line 10

Exhibit DA112

Distribution 102 416 (Exhibit AAS16

28.15.3. The meeting referred to in the report took place on 15 February and was attended by Accused No 21. Accused No 19 was also present. Accused No 21 stated that he appealed to the community to be

calm, especially after the attack on the house of the school principal, 'and I was saying even genuine grievances do not justify the violence, because I believe that violence breeds (more) violence in most of the cases'.

Some of the COSAS leaders who spoke dissociated themselves from the acts that were committed at the principal's house and said that was not the work of their organisation, it was possibly the work of the undisciplined youth.

Chikane: Vol 300 pl6995 line 11 - pl6996 line 9

28.15.4. Accused No 21 also referred to the efforts made by Bishop Tutu to restore peace which were given official recognition in the press. In an article which appeared in The Pretoria News of 24 February 1984 it is stated: 'Boycott halted: Tutu praised. The Minister of Education and Training, Mr Barend du Plessis, has lauded the contribution made by

Bishop Desmond Tutu to politically
and emotinally defuse the
Atteridgeville boycott'.

Chikane: Vol 300 p17003 line 11 - p17004 line 3

29. This entire body of evidence by Chikane was not challenged in cross-examination. It is also confirmed in material respects by the evidence of Dr Nkomo, whose evidence on this issue was also not challenged in cross-examination. There was accordingly no need for the defence to take the matter any further.

30. Extensive reference is made to C110 in support of certain propositions. Suffice it to say that submissions have already been made in regard to the value of C110 as evidence in this case. In any event, the document does not show that any violence was planned and perpetrated by affiliates of the UDF in Pretoria.

Betoog: pp952 - 956

31. Reliance is also placed on Exhibit N3 to show that activity in connection with the Black Local Authorities was carried on in Atteridgeville during 1983. There is nothing in this report to show that unlawful activity was contemplated; nor is there anything to link this report with the violence which

broke out more than a year later. In any event the report is not relevant to the indictment as amplified by the further particulars, which seeks to hold the accused responsible for violence which arose as a result of organising by ASRO in Atteridgeville during the period August 1984 to February 1985.

Betoog: pp956 - 957

32. The State also places reliance on the Black Christmas campaign. There is no evidence that ASRO conducted the campaign. There is nothing to indicate that this campaign had anything whatever to do with the Black Local Authorities. There is no relationships between the conduct of this campaign and any violence. On the contrary, as has already been argued, the evidence of Molefe shows that violence formed no part of this campaign at all.

Betoog: p959 para 9

33. Certain concessions by Dr Nkomo are incorrectly or inaccurately stated.

Betoog: p960 para 10

- 33.1. The statement that it was proclaimed at mass meetings that councillors were puppets is unjustified. Dr Nkomo makes it quite plain that neither he nor members of his committee referred to councillors as puppets at mass

meetings. He said however people from the floor did refer to councillors in these terms.

33.2. It is correct that according to Dr Nkomo, the policy of ASRO was that councillors should resign and that this was communicated at meetings. However, Dr Nkomo also said that this must be done by 'persuasion' and by 'appealing to their reason'.

Nkomo: Vol 383 p22220 lines 26 - 30

33.3. Furthermore, the State says that, according to Dr Nkomo, after the councillors resigned, 'hulle en die massas' would decide what would replace the councillors. This passage implies that ASRO would have to be consulted as well. In fact the witness makes it quite clear that ASRO had not discussed the question of what would happen after councillors resigned.

Nkomo: Vol 383 p22221 lines 23 - 27

34. Various documents are referred to in order to show how education and the youth were important in the process of organising and mobilising. This is entirely unrelated to the cause of the violence in Atteridgeville during the period mentioned. The

attitude of the UDF to education has already been argued. In any event, each of the documents referred to will be dealt with in turn.

34.1. The first document is Exhibit C25. The last page of this document indicates that it is a talk to be given at an AZASO conference opening session, Orlando East. 4/7/84'. The relevance of a draft of a speech 'to be given' in Orlando East to an allegation that revolt, violence and intimidation took place in Atteridgeville as a result of the activities of ASRO, is not clear. In any event it is not known whether the speech was given and if it was given whether it was delivered in the form which appears in the exhibit.

34.2. The opening sentence of the speech suggests that the speaker was delivering this speech in his capacity as a member of the Transvaal Anti-PC.

34.3. On the assumption that the speech was given on 4 July 1984, this occurred prior to the material period of the indictment in relation to this area, and cannot be treated as part of the 'organising' relied upon.

34.4. There is no indication that this speech, even

if it was delivered, reflected the policy of the UDF or ASRO.

34.5. The Court's comments in respect of a similar document, namely, Exhibit C7 which was found in the possession of Lucille Meyer and which may or may not have been a speech are particularly apposite:

'It may be an entire waste of time, unless it shows that this was a document which was the backbone of a speech, for example, delivered'

Molefe: Vol 260 pl3996 lines 20 - 23

34.6. If the State wished to attribute any importance to this alleged speech, it is surprising that it did not call any witness to confirm that this speech was delivered, and what the reaction to it was.

Betoog: p961 para 4

35. The State then relies, as it does repeatedly throughout its argument, on a particular edition of SASPU National. The State has simply ignored the evidence concerning the relationship between the UDF and various community newspapers.

36. The State devotes several pages of its argument on the role of COSAS in relation to educational issues. This ignores the case which the State undertook to prove which was that the violence arose out of the organising of ASRO and, in any event, whatever the attitude of COSAS might have been, the attitude of the UDF as reflected in the undisputed evidence referred to above, was one of endeavouring to normalise the school situation and to ensure a return of pupils to school.

Betoog: pp962 - 972

37. Most of the State argument does not deal with the issue of whether ASRO organising gave rise to the violence.

38. It was never put to Dr Nkomo that his organisation was responsible for the violence in the area (as alleged). His denial of the allegation that ASRO was a violent organisation was not challenged in cross-examination.

It has accordingly been established by the evidence that ASRO was a non-violent organisation and that it was not responsible for any of the violence in this area.

39. In all the circumstances, the accused cannot be held responsible for any of the violence which occurred in Atteridgeville.