

AREA NO 23 - GRAAFF - REINET (Betoog pages 686 - 713)

1. It is alleged (Further Particulars, p 80) that, during 1984, COSAS, UDF, GRAYCO and GRAFCOM organised, and intimidation, violence and revolt broke out.

2. The allegation that the violence which occurred was a result of the organisational activities undertaken by the organisations which have been mentioned has not been proved.

3. The State evidence was as follows:

3.1. General evidence was led of unrest at schools, since February 1984, of an illegal gathering on June 16, 1984, of attacks on councillors' houses on the night of 15 November 1984 and of the erection of barricades and the stoning of police vehicles during 1984.

Stander: Vol 113 p 5656 lines 21 - p 5658 line 29;
p5662 line 29 - p5663 line 30; p5664 lines 5 - 21

3.2. General evidence was led that the council had resigned in the course of 1984, that the black police no longer lived in the township, and that very few black residents still paid rent.

Stander: Vol 113 p5666 line 29 - p5667 line 16

3.3. Evidence was led of UDF and ANC slogans which were painted at places in the township. Photographs of these slogans were tendered as Exhibits AAY30 - 34

Stander: Vol 113 p5667 line 24 - p5668 line 24

3.4. General evidence was led to the effect that GRAFCOM, GRAYCO and COSAS were active in Graaff- Reinet in 1984. GRAFCOM and GRAYCO were established in February 1984 and COSAS was established in Graaff- Reinet sometime later. The organisations held joint meetings in the Majestic Hall in Kroonvale, the coloured township in Graaff- Reinet, at which UDF banners were displayed.

Stander: Vol 113 p5652 line 20 - p5653 line 31

3.5. Direct evidence was led of two meetings. The first of these was a GRAFCOM meeting in April 1984. At the meeting there was talk of 'puppets' and 'dummy institutions' in relation to councillors and councils.

Stander: Vol 113 p5654 lines 6 - 16; Vol 114 p5670 lines 1 - 12

The holding of this meeting is disputed. It is identified by Stander as a GRAFCOM meeting only on the

basis of a poster, which was not produced. This evidence is hearsay.

Stander: Vol 114 p5670 lines 9 - 22

3.6. The second meeting was a joint GRAFCOM and GRAYCO meeting on 8 August 1984. The meeting was held in protest against the elections to the House of Representatives and was addressed by Rev Alan Boesak and Rev Fred Hufkie, the latter being a patron of GRAFCOM. At the meeting, banners of GRAFCOM, GRAYCO and COSAS were displayed.

Stander: Vol 113 p5654 line 17 - p5655 line 13

3.7. Exhibits ABA4 and 5 were found by the witness at the scene of the meeting approximately 15 minutes after the meeting. ABA4 is a pamphlet advertising the meeting apparently issued by GRAFCOM. ABA5 is a song sheet of 15 songs. The witness conceded that he did not know how the song sheets had got to the meeting nor whether the organisers of the meeting had anything to do with it.

Stander: Vol 113 p5662 lines 3 - 25; Vol 114 p5675 line 28 - p5676 line 27

3.8. Evidence was led that there was a school

boycott at Ngweba High School in Graaff-Reinet from about the end of February 1984. Pupils allegedly gathered on the school premises singing songs, some of which referred to Mandela and Tambo and shouting slogans: 'Viva UDF, Viva GRAYCO, Viva GRAFCOM'. Some pupils allegedly wore UDF T-shirts to school.

Stander: Vol 113 p5656 line 24 p5657 line 29

- 3.9. Evidence was led of an incident at one of the schools on 24 April 1984. Police drove a group of approximately 200 pupils out of the premises of the Ngweba School. A number of scholars were sjambokked. Approximately 20 of these pupils allegedly wore UDF T-shirts. Later that day a car belonging to the Department of Education and Training was burnt, the house of W/O Moshesh was attacked and the home and car of the principal of the Ngweba School, Mr Mankay were burnt. The witness has no personal knowledge of any of the individuals responsible for these incidents of unrest. However, a certain Spiri Pase, a member of GRAYCO, was arrested in connection with the burning of the vehicle of the Department of Education and Training. Pase was identified by the witness on

photograph AAY27.

Stander: Vol 113 p5657 line 30 - p5660 line 20

3.10. Evidence was led in connection with the stoning of the houses of the mayor, the deputy mayor and a black policeman on the night of 15 November 1984. The witness has no knowledge of who was responsible for these attacks. However, he found a GRAFCOM NUUS IINDABA (submitted as Exhibit ABA7) at the mayor's house, immediately after the attack.

Stander: Vol 113 p5664 lines 6 - 30

4. The matter for determination is whether or not the activities of the organisations concerned gave rise to the violence in the area. The issues of fact between the State and the defence which have been canvassed in the evidence of the defence are as follows, namely:

4.1. Whether UDF T-shirts were at schools at Graaff- Reinet as early as April 1984, the defence suggesting that there were none in Graaff- Reinet until the second half of the year.

4.2. Whether GRAFCOM called a meeting during April 1984.

- 4.3. Whether or not the school boycott was the result of the activities of any organisation.
- 4.4. Whether the police acted with justification in regard to the events of 24 April 1984.
- 4.5. The defence led only one witness namely Miss Sam.

She said that there was no community organisations in Graaff- Reinet early in 1984 and that she first heard about the Graaff- Reinet Youth Congress (GRAYCO) at a residents meeting during March 1984. As she understood the matter, GRAYCO was formed because the youth were getting involved in criminal activities and were getting drunk. The absence of sufficient schooling facilities was discussed at this meeting and it was said that even scholars could become members. The witness accordingly became a member.

Sam: Vol 384 p22262 line 13 - p22264 line 13

The only dispute in relation to this evidence was whether GRAYCO was launched by February 1984 or not.

Vol 384 p22277 lines 16 - 22

Accordingly, it is submitted the reasons for which GRAYCO was formed are not in dispute.

5. Sam gives details of the formation of the COSAS branch in Graaff- Reinet. She said that the branch was formed after the end of the mid-year school holiday purely as a local effort. A delegation thereafter went to Port Elizabeth and brought back a copy of the COSAS constitution. She became the secretary of the committee. At the time of the formation of this CASAS committee, none of them had any literature about COSAS. Until the end of 1984, no one from COSAS regional or COSAS national visited the committee, in fact there was no communication at all.

Sam: Vol 384 p22273 line 12 - 22275 line 9

Her evidence under cross-examination is that she and others knew about the existence of COSAS and that COSAS was interested in the solution of the problems of scholars. She gleaned this information from the newspapers.

She added under cross-examination that grievances in Graaff- Reinet were discussed with members of the Cape region of COSAS

during 1985. She gives details of these grievances.

Vol 385 p22314 line 10 - 22317 line 13

These details fall outside the period of the indictment and are irrelevant. So, too, is the COSAS meeting of June 1985. Whether or not the witness was present is of no consequence and the criticism in para 5 of the Betoog, page 707, is without basis.

In the light of the allegation that COSAS was one of the organisations responsible for the violence in the area, it is remarkable that this allegation was never put to the secretary of COSAS whilst she was in the witnessbox. She has testified to the effect that she has heard no violence discussed at any meeting which she attended whether of COSAS or GRAYCO or GRAFCOM. This evidence is left unchallenged. This must mean that the State did not and does not dispute that COSAS (Graaff Reinet) in particular and the other organisations generally, did not take any decisions in connection with the causing of violence.

Sam: Vol 384 p22276 lines 19 - 23

This conclusion is fortified by the fact that there is no evidence that COSAS, GRAYCO or GRAFCOM ever took decisions to engage in, incite or encourage violence. Furthermore, Sam's evidence in regard to the date of the formation of COSAS and the fact that it was a local effort remained unchallenged.

6. The evidence of this witness concerning the schools boycotts remains, in large measure, undisputed. The extent of the conflict of fact is dealt with below.

Miss Sam said that the school boycott began in March 1984 at her school because a fellow scholar one Pase, was suspended after he had allegedly been involved in a fight with another pupil. The scholars were very unhappy about the matter because they felt that the punishment was too severe. The matter was raised with the principal but to no avail, and a boycott of classes was consequently decided upon by the scholars in order to achieve his readmission. It was also decided that those who wished to go to classes could continue to do so.

Sam: Vol 384 p22265 line 26 - 22268 line 4

The State witness Stander confirmed that the immediate reason for the boycott was the suspension of Pase.

Despite this it was put to the witness Sam that the boycott began on 20 February 1984 in memory of Robert Sobukwe.

Vol 385 p22290 line 2 - p22292 line 18

The witness Stander, when led on the question of the school boycott was asked whether a boycott was 'aan die gang' as at 20 February 1984. He replied in the affirmative.

Stander: Vol 113 p5656 line 21 - 5657 line 11

Under cross-examination, he frankly conceded that he could not be more precise than that there were already problems towards the end of February 1984.

Stander: Vol 113 p5676 line 27 - p 5677 line 9

Significantly, it was never put to the witness Sam that the school boycott was orchestrated or that it started or was maintained through the activities of any of the organisations mentioned in the indictment as being responsible for the violence in the area.

7. Her evidence about what happened at the school before the police arrived on 24 April 1984 is not put in issue through any other evidence. She said that it was decided to ask the principal to call the chairman of the school committee to address them. It was later

reported to them that the chairman of the school committee was not available, whereas the scholars discovered that he in fact was. At this stage, the principal said that the scholars would be forced to go back into their classrooms. They then caused the gates of the school to be locked and moved over from the back of the school to the front waiting for the chairman of the school committee to arrive. Instead, they were approached by the circuit inspector Mr Blackie in the company of the principal. The police accompanied the inspector.

Sam: Vol 384 p22268 line 5 - p22270 line 26

Mr Stander was of course unable to comment on this evidence because, according to him, he came later.

However, there is a dispute between Stander (cited above) and the witness Sam in connection with what happened after the police arrived. The witness Sam says that the principal, while in the company of the circuit inspector Mr Blackie announced that the school would be closed. As soon as this happened, the pupils asked to be allowed to go back to the classrooms to pick up their books. All the children were in school uniform and no slogans were then chanted. The children were sjambokked after Blackie said 'vat hulle'.

Sam: Vol 384 p22269 line 6 - p22272 line 9

8. There is one other matter in respect of which there is a dispute between the State and the defence witness. Stander says that GRAFCOM was founded in February 1984.

Stander: Vol 113 p5653 lines 8 - 13

The witness Sam testified that GRAFCOM came into existence during July 1984.

Sam: Vol 384 p22265 lines 3 - 5

9. The State has criticised the evidence of Sam on various grounds. In the first place, it is contended that her evidence is improbable in certain respects:
- 9.1. Her evidence concerning the way in which COSAS was formed can be considered improbable only if it is assumed that young people at school who have read about COSAS would conduct a detailed investigation concerning the organisation before forming a branch themselves. No such assumption is warranted. The COSAS constitution was obtained in July 1984 and not in 1985 as stated in the Betoog. The criticism that her evidence about the presence of police with their dogs at the school on an occasion when the scholars were

to re-register after the boycott had begun is improbable, is a matter of speculation and assumption. It cannot be assumed that policemen always act reasonably. Furthermore, there is no inherent improbability that the police did not come to the wrong conclusion, after the events of 24 April 1984 and the closure of the school, concerning the reasons for the presence of the scholars there.

Betoog: pp704 to 705, (i) and (ii)

- 9.2. The State says that her evidence that a boycott was started as a result of the suspension of a single scholar and that it lasted a whole year is not reasonably possibly true.

Betoog: p705(iv)

In fact this is not her evidence. It is true that the boycotts began around the suspension of Pase sometime during March 1984.

As summarised earlier in this argument, the evidence is that the pupils were dispersed at a school in the circumstances already detailed, on 24 April 1984. The effort to re-register on 30 April 1984 was frustrated by

the arrival of police and attacks on scholars, but only some students did not re-register as a result of this conduct.

Sam: Vol 384 p22272 line 10 - p22273 line 13 and in particular p22273 lines 10 - 13

It would therefore seem that schools in the main carried on fairly normally until August 1984 when scholars decided not to attend school any further because they were not ready to write examinations.

Sam: Vol 384 p22275 lines 10 - 29

The reference in the Betoog to AB 29 takes the matter no further; the witnesses had never seen it:

Vol 385 p22336 lines 16-29

- 9.3. There is nothing improbable about the witness's evidence that the principal gave consent for a meeting of scholars to be held during school hours. This contention amounts to a suggestion that the school principal was so unreasonable that he would not allow scholars an opportunity to ventilate their problems at school in the hope that discussion would result in a speedy resolution of the

difficulties.

Betoog: p706(v)

10. The witness is also criticised on the basis of the existence of certain contradictions in her evidence. It is submitted that any contradiction between her evidence and what was put cannot be held against the witness because there is no evidence that the defence case as put was based on her statement. The other contradictions relied upon are so minor that they are of no consequence.

Betoog: pp606 to 607 para 3(i), (ii), (iii), (iv) and (v)

11. All the contentions that the witness was evasive are without any substance at all.

11.1. There is no indication that the witness engaged in verbal fencing when questioned about the UDF and songs. There were obviously matters which she did not know about and matters which she could not remember. There is no basis for suggesting that she lied when she said that she could not remember or that she did not know.

Betoog: p707 para 4

11.2. The State contends that she is evasive because

she was silent on the issue of instructions given by the Eastern Cape Region of COSAS. It is contended that this is so because Exhibit CA45 clearly makes out that such instructions are given. This submission is without foundation: Exhibit CA45 does not purport to give any instruction; there is nothing to connect this exhibit with events in 1984; there is no evidence that the witness saw the document; the document relates to a conference held in June 1985 which is outside the period of the indictment and there was no reason at all for the witness to deal with it - it is entirely irrelevant to the period (1984) selected by the state as the one with which it was concerned.

Betoog: p708 para 6

11.3. The criticism of this witness to the effect that she did not testify about a meeting which, according to Exhibit W47 was held on Sunday 4 August 1984 is totally unjustified. At best for the State, the statement in the document is prima facie proof of its contents. It conflicts with ABA6. The understanding that no such meeting took place

simply places the correctness of the report in question. In any event, 4 August 1984 was not a Sunday (as described in W 47) but a Saturday.

Betoog: p408 para 7

Her evidence to the effect that she first saw UDF T-shirts in Graaff- Reinet during August 1984 was never challenged.

Sam: Vol 384 p22272 lines 1 - 9

Stander testified that when he arrived at the school on the morning of 24 April 1984, he found that the gates were locked and that 200 children were gathered inside the schoolyard chanting slogans. Some of them were wearing UDF T-shirts. They did not disperse when asked to do so and sjamboks were thereafter used.

Stander: Vol 113 p5657 line 30 - 5658 line 29; p5679 lines 9 - 11

12. In any event it is submitted that the use of sjamboks on this occasion was clearly an over-reaction on the part of the police and that the security forces which were assembled there in large numbers were intent on a punitive exercise. There is no evidence of conduct on the part of the pupils which justified the action taken.

There is no reason to discount the excessive use of force on the part of the police on this occasion in relation to the further events in Graaff-Reinet.

13. Miss Sam was present at the meeting of 8 August 1984; she did not see the song sheet ABA5 there.

Sam: Vol 284 p22275 line 30 - 22276 line 18

She is certain that there was no COSAS banner at this meeting.

This evidence is not inconsistent with that of the witness Stander who could not say that this exhibit had been distributed in the course of the meeting.

Stander: Vol 113 p5675 line 28 - p5676 line 1

Miss Sam's undisputed evidence to the effect that violence was never discussed or propagated at any meeting which she attended applies equally to this meeting.

Sam: Vol 385 p22276 lines 19 - 23

14. In order to determine whether or not the activities of the UDF and/or its affiliates gave rise to violence in the area, the undermentioned factors are relevant:

14.1. In connection with the school boycott Exhibit

ABA6, a GRAFCOM NUUS, states under Section 4, Boycott 'oproep deur AZASO/COSAS, nie die UDF, aan studente om te boikot'.

14.2. The only evidence of activities of any organisations in Graaff-Reinet was the evidence of the two meetings in April and August 1984 and of the documents ABA6 and 7 found by the witness Stander. There is no evidence of any illegal activities having taken place at either of the meetings. Nor do ABA6 and 7 reveal any illegal activities.

14.3. The documentary evidence shows that GRAFCOM was clearly concerned about operating in a responsible manner and was informed by Christian values.

14.3.1. Section 4, of ABA6 includes the statement: '... leerlinge is besig om verantwoordelik en gedissiplineerd te boikot';

14.3.2. Section 6 of the same publication contains "Reg oor die land gaan mense die 1ste verjaardagsdag v/d UDF vier op 'm vreedsame en ordelike wyse".

14.3.3. ABA7, page 3 entitled 'Detention of our People', reads at line 7, 'The worst - they were not allowed to worship our Father'

14.3.4. There is reference to Matthew 25 : 35 - 40 at the bottom of the page.

14.3.5. ABA7 page 2 under the heading 'GRAFCOM' states : "Graaff-Reinet Gemeenskap Organisasie is nou vyf maande oud. Die mense van Graaff-Reinet het by mekaar gekom en die probleme van ons gemeenskap bespreek. Ons ouers, sport klubs, kerke, studente en werkers was genader en na vele besprekings en gebede was GRAFCOM gestig.'

(emphasis added)

Stander testifies it was found on 15 November 1984.

ABA 6 para 1 under 'Geskiedenis van GRAFCOM' states : 'Kerk organisasies, sport organisasies, studenteorganisasies verenig onder

vaandel v/d UDF (24/7/84)."

The joint effect of these contemporaneous documents is that GRAFCOM was evidently formed in July 1984 (as testified to by Sam) and certainly well after February 1984 as testified to by Stander, and after April 1984 when Stander says it held a mass meeting.

14.3.6. GRAFCOM and GRAYCO are not admitted to be affiliates of the UDF. The submission in Betoog para 9.1, page 696 that defence counsel suggested to Stander that the UDF and GRAFCOM were the same organisation reflects a complete misreading of the evidence.

14.4. The only evidence purporting to link any of the organisations to any of the unrest is that ABA7 was found in the street at the mayor's house after it was attacked on 15 November 1984. It is not known who dropped the publication there nor in what circumstances nor at what stage, and the events there cannot

through this most tenuous evidence be attributed to GRAFCOM of the UDF or any of its affiliates.

15. The documentary evidence relied on by the State in its Betoog cannot unless otherwise confirmed be used to prove the truth of the contents of the documents. In any event, none of the documents link the UDF or its affiliates with any of the violence in the area. Even if the documents relied upon by the State were to be accepted at face value, all they show is that Graaff-Reinet was one of the many areas in the country where there was unrest during 1984.

Betoog: p709 paras 5 and 6

16. The final submissions made by the State are not justified. There is nothing in the evidence to suggest that COSAS and the other organisations involved people in violent action during 1984 in Graaff-Reinet nor is there any suggestion in the evidence that use was made of 'day-to-day' issues in the area for such purpose.

The suggestion that use was made of Pase's suspension and that this suspension was justified is unwarranted. The evidence is that Pase was suspended because he was involved in a fight with another

scholar, that the other scholar involved had not been suspended, and that the scholars felt that suspension was too severe a punishment.

Sam: Vol 384 p22266 lines 3 - 23

There is no justification for the submission that the activities of organisations culminated in the named acts of violence.

There is no suggestion in any of the documents that 'a people's government' was to be installed in Graaff-Reinet. The reference to 'the people shall govern' in ABA7 is simply the expression of a desire for a democratic society.

Betoog: p710 para 4

17. In these circumstances, the State has not established that the violence in Graaff Reinet was committed at the instance of the the UDF or any of its affiliates, nor has it established that any of the accused can be held responsible for such violence.

1. The Allegations in the Indictment

1.1. It is alleged in the Further Particulars, page 79, that since February 1985, UDF, COSAS, AZAPO, and AZASM organised, and that intimidation, violence and disturbance took place; it is also alleged that on 21 February 1985, Accused No 20 actively took part in stone throwing at a funeral. The allegation concerning stone throwing was introduced after an objection to the leading of evidence concerning this issue had been sustained.

Branders: Vol 4 pl46 lines 2 - 15

Judgment: Vol 4 pl69 et seq

1.2. AZAPO and AZASM were not affiliates of the UDF, and no connection exists between the UDF and any of the activities of such organisations. If they were active in the area this tends to weaken rather than strengthen the State case.

2. The Allegations against Accused No 20

2.1. It is common cause that:

2.1.1. Accused No 20 was present at the funeral held at Seisoville on 18

February 1985 and at the police station thereafter.

Vorster: Vol 100 p4897 lines 11 - 21

2.1.2. There was no violence perpetrated by funeral goers at the funeral of 18 February 1985.

Vorster: Vol 100 p4928 lines 12 - 21

3. The belated allegation that Accused No 20 threw stones at the police after the funeral of 21 February 1985, was based solely on the evidence of Branders.

Branders: Vol 36 p1661 line 13 - p1663 line 22

The allegation which was not originally made appears to have been an afterthought and has been demonstrated to be false.

This emerged firstly from the cross-examination of Branders, and in particular from Branders: Vol 36 p1664 line 12 - p1670 line 1, and the passages cited below.

Branders said for example that he saw Accused No 20 in the company of the colonel at the police station on the day he threw the stones at the police but did not tell the colonel about what had happened, and that he

made no statement to the police in connection with the incident until 30 May 1985.

He says that he did not open a docket in connection with this incident because he is a security policeman and as such has nothing to do with public violence cases.

Branders: Vol 36 pl686 lines 7 - 11

He also said that many policemen and many other people were present at the stage when Lekota threw stones. Yet nobody sought to charge Accused No 20 with this offence, despite the fact that on Branders evidence he was held by the police and taken to the police station.

Branders: Vol 36 pl684 line 21 - pl685 line 3

4. Branders' evidence was firmly disputed in cross-examination and it was made clear that he was being charged with fabricating the evidence. No policemen were called to corroborate him (though on his evidence police witnesses were able to corroborate him) and Accused No 20's version was subsequently corroborated in material respects by the only other policeman to be called, Capt Vorster.

5. Captain Vorster gave evidence in connection with the funerals of 18 and 21 February 1985. The evidence of Vorster is to the effect that Accused No 20 was at the funeral of 18 February 1985 and at the police station on the same day. Branders, who claimed to have been observing the funeral of the 18th with binoculars, was unaware of Accused No 20's presence at this funeral. Since Accused No 20 spoke at this funeral, it is highly improbable that Branders would not have seen him there.

Branders: Vol 36 pl667 lines 22 - 24

Branders' lack of reliability is further demonstrated by his evidence that he saw nobody making speeches at the funeral of 18 February, although he claims to have been observing it through binoculars.

Branders: Vol 36 p 1677 lines 6 - 8

6. Vorster does not refer to any stonethrowing on 21 February, and he did not see Accused No 20 on that day. Accused No 20 denies that he threw stones at the police on 21 February or at all and his denial was not challenged in cross-examination.
7. The State has not persisted in the allegation of stone throwing made against Accused No 20. The evidence of Branders is clearly untruthful, and the nature of the

untruthfulness is such that no reliance can be placed on any aspect of his evidence.

A number of defence witnesses testified in relation to various incidents at Seisoville. It is conceded that there are contradictions in their evidence in relation to detail but this is not surprising in the light of the fact that they were giving evidence of things which happened many years ago. Sebetoane was in certain respects an unreliable witness.

8. The nature of the presence of the UDF or any affiliate thereof at Seisoville

8.1. It is clear from the evidence of Bloem read as a whole that he distributed UDF pamphlets, sold UDF T-shirts and talked to people in the area about the UDF. It is also clear from the evidence that comparatively few UDF T-shirts were seen at various occasions. However, there was no formal UDF structure in the area during the period of the indictment. It is not disputed by the State that the UDF ad hoc committee was formed at Seisoville only on 31 August 1985.

Bloem: Vol 352 p20142 line 2 - p20143 line 11

8.2. Much reliance is placed by the State on the activities of Mr Dennis Bloem in the area.

8.2.1. The whole of the State argument, (and in particular the argument concerning the activities of Bloem) contain inaccuracies and exaggerations.

The State argues at page 729 of the Betoog that 'in die verskillende gebeurtenisse wat in Seisoville plaasgevind het, het die getuies bewys hoe dat Beskuldigde No 20 en ander tydens die voorvalle gekleed was in UDF T-hemde en was UDF baniere by begraffenis'. The evidence is that Accused No 20 was present only at one funeral and not at any other happening in Seisoville. Mr Bloem has been shown to have been present only at funerals and not elsewhere. A UDF banner was seen only at one funeral.

8.2.2. On the State argument, Mr Bloem did nothing at all which could be related to the events of 11 February

1985. Accused No 20 is not shown to have been present in Seisoville shortly before 11 February 1985. He spoke publicly in the area for the first time only after the trouble began.

8.2.3. Through the process of broad generalisation and rolled up comments, the State has sought to elevate infrequent contact, and a close personal relationship between Bloem and Accused No 20, to regular, organised, conspiratorial conduct, related to the disturbances in Seisoville.

8.3. It is submitted that there is no cogent evidence of the presence of COSAS in the area apart from the presence of COSAS T-shirts and a banner at one funeral, and the statement in the SASPU National, AAC55 that some joint organisation was formed. It is also clear from Exhibit CA27 that the document found with the witness Sebetoane in which she said that COSAS was her 'school organisation', was only found towards the end of August 1985, after

the discussions had been held concerning the affiliation of MASO to COSAS.

- 8.4. Although the date was never established, it was the State case that Maokang Students' Organisation (MASO) was launched on 9 February 1985 at Seisoville.

Sebetoane: Vol 359 p20649 line 1 - p 20650 line 10

Vol 359 p20645 line 28 - p20650 line 20

Bloem: Vol 353 p20236 line 22 - p20237 line 18

It must also be borne in mind that while no details were put in relation to the formation of COSAS, extensive detail was put in connection with the date and circumstances of the formation of MASO.

It is improbable that two students' organisations such as MASO and COSAS would have existed side by side, and that a person like the witness Sebetoane would have been a member of both organisations.

It is common cause that MASO was formed in the first part of 1985 at Moukang. The evidence of the witness Sebetoane (which on this issue is not disputed) to the effect that a meeting

was held towards the middle of 1985 at which consideration was given to MASO becoming a branch of COSAS is probable and acceptable.

Sebetoane: Vol 359 p20619 lines 1 - 22

It follows that on the probabilities COSAS did not have an active presence in Seisoville at the time of the unrest. There is no reliable evidence to the contrary. The presence of a few persons wearing COSAS T-shirts at a funeral is wholly insufficient to establish an active COSAS presence in the area.

It is accordingly submitted that the evidence as a whole establishes that there was no UDF affiliate in the area at the time when the trouble arose.

9. The Role of Accused No 20 at Moukang

It is common cause that Accused No 20 was born at Moukang and that his mother lives there. He accordingly visits the area regularly.

There is cogent and extensive evidence which is not disputed that Accused No 20 spoke at the funeral of 18 February 1985 at Moukang discouraging violence.

Lethae: Vol 351 p20041 line 6 - p20043 line 3

Maxuntsu: Vol 354 p20314 line 22 - p20315 line 16 and
Vol 355 p20353 line 13 - p20361 line 28

Nhlapo: Vol 360 p20700 line 14 - p 20701 line 12

Sebetoane: Vol 358 p20608 line 10 - p20609
line 26

Bloem: Vol 352 p20156 line 16 - p20157 line 12

Vol 358 p20188 line 12 - p20189 line 8

There are minor differences between the witnesses concerning exactly what Lekota said. Some say he mentioned the UDF. Others did not remember this. There were other differences as to details of the speech. These differences are understandable in the light of all the circumstances, including the fact that the UDF did not have a significant presence in the area, and a reference to the UDF may therefore not have been seen to be of any moment.

10. Education

The State evidence is that trouble began on 11 February 1985, but none of the State witnesses say anything about the cause of the trouble. The evidence of Branders is to the effect that he was summoned to the Bodibeng Secondary School at 07h45 on 11 February. Here the people formed themselves into a procession and moved to another school approximately two kilometres away. From here the crowd then went to the shopping centre where property was damaged and

burnt. As a result of this action, the crowd was dispersed by the police.

Branders: Vol 4 p128 line 3 - p133 line 6

He says he was later summoned to the Mphoadi Training College by the principal. Here, force had to be used by the police again to disperse young people.

Branders: Vol 4 p133 line 7 - p 134 line 23

We have already made the submission that Branders is a totally unreliable witness. It is submitted that the evidence of Sebetoane is clear and convincing in regard to how troubles started at Bodibeng School during February 1985 and should certainly be preferred to the evidence of Sgt Branders. This applies especially to that section of her evidence which was not put in issue by the State during her cross-examination.

The evidence was that, two days before 11 February 1985, there was an announcement at the school to the effect that the names of prefects would be announced on 11 February. The witness goes on to say that the names of prefects were announced on 11 February but that as this was being done, increasing vocal dissatisfaction was expressed by the pupils gathered at assembly. The scholars were then asked to go back into their classrooms. The witness was one of the few

who complied with this request. Her attention was attracted to a noise outside. She looked and saw that scholars had gathered on the school premises shouting 'we want SRC's'. She decided to join this crowd.

Sebetoane: Vol 358 p20595 line 15 - p20599 line 27

This evidence is not disputed and shows that the trouble began in this area spontaneously and without any organisation beforehand.

Someone suggested that they should go to Kamanelo. The witness herself had the impression that they would return to their school with the scholars from Kamanelo. While people were in the process of joining this group, the police fired teargas at the crowd without provocation and everyone ran away.

Sebetoane: Vol 358 p20599 line 28 - p20603 line 25.

Contrary to the evidence of Branders, it was put by the State to Sebetoane and other scholars who gave evidence from this area that the scholars went from the Kamanelo school to the teachers training college.

A number of other witnesses confirmed that teargas was fired by the police at or near Komanelo School. There are contradictions as to detail between the various witnesses, but the substance of their evidence is

consistent and credible. The State's approach to this evidence is superficial. The fact that contradictions exist, is not sufficient to reject the entire body of evidence as lies. That teargas was fired there, was not disputed by the State. The fact that this was not put to Branders when he gave evidence shows merely that the instructions obtained in regard to Seisoville were incomplete, not that the witnesses who subsequently gave evidence about the teargassing were not telling the truth.

There is no evidence of any activity around 11 February 1985 by any organisation which can be said to have caused what happened on 11 February 1985. It is submitted that it is clear from the evidence of the scholars that what happened at the schools took place spontaneously.

Of importance is the evidence on Nhlapo. He is the owner of a butcher shop situated at the Phomolong Shopping Centre which is approximately 300 metres away from the Kamanelo School. He says that between 10h00 and 10h30 on the morning of 11 February 1985, he saw children running from the Kamanelo School with the police behind them firing teargas. He says that 10 - 15 of these children ran into his shop. An important aspect of his undisputed evidence was that until he

left his shop at around 11h00 (this was after the police attack) and after he had let the children out of the shop, no damage had been done to the shopping centre.

Nhlapo: Vol 360 p20690 line 2 - p 20692 line 21

He saw damage only when he returned to the shopping centre later.

Nhlapo: Vol 360 p20692 line 22 - p20696 line 13

It is clear from his evidence that the children caused no damage to the shopping centre before the teargassing. The damage (by whomever it was caused) was done later - possibly as a reaction to the confrontation with the police.

11. All the witnesses who gave evidence in connection with the funeral of 18 February 1985 have also given evidence to the effect that they were dispersed by the police who fired teargas at them without warning. There are admittedly differences in their versions. However these cannot be regarded as material contradictions. Witnesses were giving evidence of events which happened a long time ago. It must also be borne in mind that each of the witnesses was at a different point of the cemetery and would have therefore have seen the events somewhat differently.

There was a large crowd. It is perfectly reasonable in these circumstances to notice and emphasise a feature which is missed by another. What seems to have happened was that the time within which the funeral had to be completed was running out. The grave had not been filled. A small group remained to fill the grave and the others were asked to leave, and did so. The police fired teargas both at the small group around the grave, and the larger group which was dispersing. The accounts will obviously differ depending on where the witness was - at the graveside or dispersing. It is clear from the evidence of a large number of people that teargas was used by the police on 18 February 1985: the fact that teargas was used at the funeral is not disputed.

Moreover it was not used to quell any violence but to drive out people from the cemetery presumably because they had overstayed their time. This would in itself have been provocative.

There is also clear evidence of unprovoked police attacks at the homes of deceased persons after the funeral service and at a time when the traditional washing of hands and eating was taking place.

Mr Lethae gave evidence of a teargas attack by police at the Wolfe funeral on 27 February 1985. His evidence was not challenged in cross-examination. (Vol 351 p20043 line 4 - p20044 line 10)

Mr Bloem confirmed the evidence given by Mr Lethae concerning the events at the funeral of Brent Wolfe on 27 February 1985. (Vol 353 p20167 line 21 - p20170 line 17)

Mr Bloem also gave evidence to the effect that teargas was fired at the funeral of Mokhoko as well as at the house of the deceased later on 21 February 1985. Bloem: Vol 353 p20166 line 8 - p20167 line 20

Mrs Maxuntsu also gave evidence about an unprovoked police attack at the house of the deceased Mokhoko on 21 February 1985. Maxuntsu: Vol 355 p20319 line 7 - p203121 line 30

Mr Tau, a businessman in the area gave evidence of a police attack while people were eating at the house of Mokhoko on 21 February 1985. Tau: Vol 357 p20553 lines 18 - 29

12. At pages 733 - 735 of the Betoog the State relies on Exhibits C55, C68 and C110. C68 deals with Grahamstown and has presumably been cited in error.

The reliance on The Eye of March 1985 for the conclusion drawn by the State that the UDF claims the resignation of councillors as a victory, is not justified. Nor, is the submission based on AAC55, which is not admissible to prove the truth of any facts contained therein.

13. General

It is clear that the UDF ran no campaign in the area except that relied upon by the State which is a campaign with which Bloem was involved against the tri-cameral elections. It seems common cause that no violence emanated from this campaign.

It is clear that there was no campaign conducted in the area against councillors.

The State has failed to establish the allegations made against the accused in the indictment as to the cause of the violence and disturbances in Seisoville.

AREA NO 31 - THABONG (Betoog pages 737 to 773)

1. It is alleged at page 81 of the Further Particulars that the UDF and COSAS organised in Welkom during 1984, and that revolt and violence broke out.

2.
 - 2.1. It is common cause that there were school boycotts in Thabong during August 1984, that there was violence in the area during this period, and that damage was done to property in consequence of this violence.

 - 2.2. It is also common cause that Lekota visited Thabong during 1983, that he spoke at a Million Signature Campaign launch meeting in Thabong on 25 February 1984, and that he spoke at the funeral at Thabong during August 1984.

3. The issue between the State and the defence is whether the UDF and/or COSAS Thabong were responsible for the violence and troubles which took place during August 1984.

4. The State led evidence that COSAS met regularly in Thabong during 1984.

Hugo: Vol 118 p5911

It is apparent, however, that much of this evidence was based on hearsay and that Hugo knew very little about COSAS activities or the extent of its membership. He was, for instance, unable to deny that COSAS had only about 200 members in Thabong.

Hugo: Vol 118 p5934 line 21 - p5935 line 8

Reliance is also placed on the evidence of Morolong to the effect that the meeting of 5 September 1984 was disrupted by Billy Makhobo and others wearing COSAS T-shirts and that these people (including Makhobo) shouted to the effect that he (Morolong) was not to be at the meeting. It is also said that a threat was publicly made that his house would be burnt, and that it was burnt that evening.

The State also relies on the presence of Lekota in Thabong as indicated above.

5. The defence evidence was intended to establish (and it is submitted has established) the following:
 - 5.1. That Lekota spoke at the funeral of 11 August 1984 in terms which would have made it perfectly plain that he (and by implication the UDF) did not approve of violence.

- 5.2. No statement was made at the meeting of 5 September stating that the house of Morolong should be burnt.
- 5.3. The meeting of 5 September was disrupted following insensitive statements made by education department official.
- 5.4. The difficulties experienced at the school were the result of grievances which were experienced by the scholars.
- 5.5. The police used teargas without total justification at the schools.
6. The funeral of 11 August 1984
- 6.1. It is common cause that Lekota spoke at this funeral and that he was invited by COSAS to do so. COSAS had some sort of structure in the area. However, it is clear from the evidence as a whole that its Welkom branch was not particularly well organised.
- 6.2. The importance of the funeral for the defence case lies in the fact that Lekota spoke there and disavowed violence, proclaiming the UDF as a peaceful organisations. Two factors must be

borne in mind in the evaluation of this evidence. Firstly, this evidence must be seen in the light of the fact Lekota had already made the statement contained in Exhibit DA43 approximately a month earlier. The statement made by Lekota at this funeral is part of this context.

Secondly, it must be borne in mind that the State chose not to lead any evidence at all in connection with what Lekota said at the funeral, and, save for disputing that he referred to peace, has failed to put any version to the defence witnesses in connection with what Lekota said.

6.3. Three witnesses gave evidence in connection with this funeral, namely Mrs Leeba, Mr Pathe and Mr de Vos.

6.4. The evidence of Mrs Leeba who, it is submitted, was a simple person of integrity, was to the effect that she attended the funeral because she was part of a women's group which would help at funerals. There were more than 1 000 people at the meeting they sang 'Senzeni na' while on their way to

the cemetery. She also said that the coffin was held high above people's heads and that speeches were made at the hall.

Leeba: Vol 363 p20907 - p20910

She says that Lekota spoke at the graveyard. He apologised for being late, sympathised with the deceased's family, and said that the children at the school had certain problems. He disavowed violence.

Leeba: Vol 363 p20911 - p20193

She did not see an RMC banner being brought to the graveyard as testified to by Accused No 20, and she could not remember Accused No 20 having referred to a committee being started.

Leeba: Vol 363 p20921 and p20931

However this does not affect her credibility. Mokoena, who brought the banner, apparently arrived late. It is completely plausible that she forgot this detail after so many years. Furthermore, she may not have seen the banner at all. There is nothing to suggest that everyone in the graveyard ought to have seen this banner.

6.5. Mr Pathe, a 52 year old male nurse and lay preacher of dignity, testified that when he went to the funeral on 11 August 1984 as an ordinary resident, he was asked to perform funeral rites by a member of the family.

Vol 369 p21290

He testifies that songs were sung along the way to the funeral and that he saw approximately ten COSAS T-shirts there. He saw police at a distance from the graveyard. While they were in the process of pouring soil over the grave, Accused No 20 arrived. He apologised for being late. He referred to the police violence as evidenced in the shooting of Loape and said that people must nevertheless remain peaceful. He made it quite plain that the UDF was a non-violent organisation.

Pathe: Vol 369 p21292 - p21295

Under cross-examination, the witness added that he was in control of the funeral of 11 August. He said that no one told him about any funeral restrictions and that the funeral was peaceful with no chanting of slogans.

Pathe: Vol 369 p21311

The State relies on the photograph on page 1 of Exhibit W64. There is no evidence as to when or where this photograph was taken - whether on the way to the hall, on the way to the cemetery, after the burial or, assuming it to be a photograph of mourners, whether it was a representative or posed photograph. In this context it appears that the article of which the photograph formed part was incorrect, and Mr Pathe confirmed that the reference to people having been teargassed by the police on the way to the funeral was not true.

Pathe made it plain that this photograph W64 not representative of precisely what happened in the hall and graveyard, and there is no evidence to contradict him. The photograph cannot be relied upon to discredit his evidence.

6.6. The criticism that Mr Pathe ought to have known of the funeral restrictions because he was in control of the proceedings there is totally unwarranted and ignores the fact that he was asked to conduct this funeral in the last minute and after he got there.

Betoog: p762 para 6.16

6.7. There are minor differences between the witnesses concerning precisely what happened at this funeral. There are differences for example concerning whether or not Lekota referred to the UDF, or whether or not the 'amandla' slogan was chanted. It is submitted that these contradictions are minor in the light of the period which had elapsed between the date of the funeral and the date of the evidence, and that there are not good grounds for rejecting the evidence given by defence witnesses in regard to this funeral.

7. The meeting of 5 September 1984

7.1. It is submitted that the evidence of Morolong referred to earlier in this argument to the effect that Billy Makhobo and others publicly announced their intention to burn down his (Morolong's) house is inherently improbable.

7.2. Three witnesses have given evidence of the meeting of 5 September. In assessing this evidence, regard must be had to the fact that the issues between the State and the defence in connection with this meeting are whether the meeting of 5 September started at all; whether it was disrupted before it started or

as a result of the conduct of scholars or as a result of something which Mr Msibi said; and whether a sizeable number of parents addressed the meeting. It is common cause that the meeting was disrupted at some stage.

- 7.3. Mr Leeba, a 57 year old father of schoolgoing children gave evidence to the effect that, during September 1984, he went to a meeting called by the inspector. He said that the hall was full by the time the meeting started with the majority of people being adults. He gave a clear account of how the meeting was opened and of Mr Msibi's speech in which he encouraged pupils to go back to school. He referred to the fact that Mr Mabuye and the town clerk Mr Ngake also spoke at the meeting. He pointed out that Mr Mabuye referred to problems of the children and indicated that these needed to be resolved. He also said that certain other people spoke at this meeting.

Leeba: Vol 362 p20856 - p20860

He says that Mr Msibi spoke again saying that the parents should tell the children what to do and if they did not listen (about returning

to school) they should be chased out of the house. He pointed out that people were disturbed as a result of this, that many people left and that the lights were switched off. The meeting was apparently then disrupted.

Leeba: Vol 362 p20856 - p20861

Mr Leeba also testified that, at some stage, he heard windows breaking from the outside.

Leeba: Vol 362 p20880

- 7.4. Mr Pathe also went to this meeting. However before this, he attended a meeting of a school committee with certain inspectors to try to resolve the problem. In his view, these problems revolved around the use of Afrikaans as a teaching language, the fact that teachers were not well qualified, the age limit and corporal punishment. It was this school committee which decided to invite Mr Msibi and parents to a meeting on 5 September 1984.

Pathe: Vol 369 p21296 - p21299

He confirms that the hall was full of mainly grown-up people when he arrived at the meeting. He confirms that Mr Msibi spoke at

the meeting. Others including the town clerk also spoke. He then refers to the incident where Mr Msibi said that children must be chased out of the house if they did not listen and go back to school.

Pathe: 369 p21299 - p21302

He says that there was some mumbling, that the glass door was broken, that the meeting continued in some form, but there was no agreement before the meeting closed.

Pathe: Vol 369 p21302 - p21304

He noticed Morolong in the audience and confirms that there was no trouble in relation to him.

p20304 line 14 - 20305 line 16

- 7.5. Mr de Vos says that he too went to this meeting of 5 September 1984 where the hall was full. There were more adults than children. He confirms that the meeting was disrupted when Mr Msibi spoke a second time. He said he left the meeting as soon as the disruption occurred.

De Vos: Vol 376 p21769 - p21772

7.6. The student Mochoancheng also gave evidence about this meeting.

Mochoacheng: Vol 373 p21534 - p21536

7.7. There are contradictions between the witnesses about whether or not a glass door was damaged, whether or not some glass windows were damaged, whether or not Mr Ngake the town clerk spoke at the meeting, the exact terms of what Mr Msibi said in his speech which disrupted the meeting, the numbers of people who left the hall at the stage of the initial disruption, and whether the meeting proceeded afterwards. In relation to whether or not it proceeded afterwards, it may well be that some left and some remained behind, that the meeting did proceed afterwards and that Mr Pathe was one of the few parents left behind.

7.8. It is submitted that it is highly improbable that all these witnesses gave an invented account of a meeting which on the State version did not even get off the ground.

7.9. The State's version is improbable because it suggests that hardly any parents attended a meeting called to look at and to try to

resolve the problems of scholars. It is submitted that parents would most likely attend this meeting.

8. The School Unrest

8.1. W/O Hugo testified that during July 1984 there were problems at the Theto High School in Thabong. The principal showed him a document which set out the demands of the scholars and which did not indicate by whom it had been drawn up.

Vol 118 p5192 - p5913

The school did not meet the demands of the scholars and as a result, there was boycotting of classes and the schools were closed.

Vol 118 p5913

On 1 August, the witness again went to the Theto High School. The matric pupils were the only scholars to be re-admitted but other scholars also arrived on that day.

Approximately 400 scholars then grouped together in the school ground. They sang freedom songs one of which he could recall was 'Senzina na'. One of the scholars Bily Makhobo appeared to be the leader in the

group. He also identified George Mamakwe, a COSAS member who was wearing a UDF T-shirt.

Vol 118 p5913 - p 5194

Neither Makhobo nor Mamakwe are named as co-conspirators.

After the principal had told the pupils to go into classes or leave the school grounds, the pupils left and re-grouped about 200 metres away from the school. They sang freedom songs and intermittently raised clenched fists. The police moved closer and ordered them to disperse. The scholars became unruly and ran into the black residential area.

Vol 118 p5914

All the schools in Thabong were disrupted on that day. There is no evidence of precisely how the trouble started.

Vol 100 p4893

- 8.2. The defence has led two witnesses in an effort to throw some light on precisely how the trouble started. It is clear from this evidence as a whole that the situation at the schools became aggravated from day to day and

that there was little or no organising behind what happened. Scholars simply reacted to situations in which they found themselves.

- 8.3. The student Moloi gives a detailed account of the escalation of trouble during the period 18 July to 1 August 1984.

On 18 July 1984, the witness heard that one of the teachers at the schools, Rossouw, had punished certain children without justification. He attended a meeting at school that afternoon at which the circumstances of the punishment were explained.

Vol 389 p22517 - p22519

A letter was written to the principal at this meeting complaining about certain difficulties and asking the principal to attend to them. A delegation of eleven people was elected to see the vice-principal Mr Hanekom on the next day. An appointment was made with him and Hanekom tore up the letter at the interview.

Vol 389 -p22519 - p22522

The pupils attended a report back meeting on the afternoon of 19 July 1984. The pupils were so dissatisfied that the question of retaliation against the violent conduct of teachers was raised. However, the majority decided against this course of conduct.

Vol 389 p22522 - p32523

On Friday 20 July 1984, he saw a group of scholars surrounding the teacher Rossouw. One of the scholars bled in the region of the nose and it was alleged Rossouw had hit him. The vice-principal said that everyone must go back to the class. The scholars were angry and decided that they would return to school on Monday 23 July 1984.

Vol 389 p22524 - p22525

On Monday 23 July 1984, Hanekom, when asked whether the problems experienced by the scholars had been resolved indicated that the school had been closed until the following week. The scholars then decided to walk in a group to the neighbouring Thoota Tauta school to demonstrate their problems. It is worth mentioning that it is common cause that no violence took place on this day.

Vol 389 p22525 - p22527

They returned to school on 1 August 1984 and, all pupils except matriculants were asked by the police to leave. 300 - 400 pupils gathered outside the school to discuss their dissatisfaction. They were talking in groups. This group continued to reduce in number. The police fired teargas. The scholars ran away.

They went towards the Thoota Tauta school, and when in that vicinity, police fired teargas at them. They ran into Thoota Tauta and hid there. Thereafter, and after Thoota Tauta had been disrupted by the scholars running into the classes, there was a discussion amongst the scholars and an agreement that they should go to the Leboheng High School. Police fired teargas at the Leboheng High School and they ran away.

Vol 389 p22527 - p22531

- 8.4. The witness Mochoancheng gave an account of what happened at Leboheng High School on 1 August 1985. Significantly, there had been no trouble at this school until this date. He

testified that during the third period at school on 8 August 1984, he heard some noise outside. There was no teacher in the class so he went outside to investigate. He went to the school yard and saw 50 children from Theto and Thoota Tauta schools talking to pupils of his school in the school yard. Police then fired teargas after which he ran away.

Vol 373 p21529 - p21532

He went to school for four subsequent days doing nothing.

Vol 373 p21534

- 8.5. It is clear from this evidence and the cross-examination of these witnesses that the happenings at the school were not the result of any careful organisation. Also, that COSAS as an organisation was not actively involved in the happenings at the schools.

It seems to be common cause that the trouble did start at the Theto High School on 23 July 1984. It also seems to be clear that there was no violence despite the fact that the problems at the school continued through until 1 August. It is common cause that there was

not police action until 1 August although pupils were taking up demands at the school. Indeed, a march of pupils had taken place.

It does not matter for purposes of the defence case whether some children were pulled out of their classes or not. It is submitted that, on all accounts, events took place from day to day without prior planning

8.6. A number of criticisms are made of Moloi as a witness. On a close analysis of the record most of these criticisms can be demonstrated to be without substance:

8.6.1. In paragraph 1.14.4 of the Betoog (page 740) it is said that his denial of the existence of COSAS in Welkom before 1984 is false, because Exhibit C52 shows that COSAS had a presence in Welkom by October 1983.

8.6.2. A reading of his evidence, in Vol 39 from page 22535 line 1 - 22538 line 1 shows that his evidence was to the effect that he was unaware of COSAS having a presence in Thabong before March 1984. It is clear from the

passages cited that he was not friendly with any of the persons alleged to be COSAS officials, that he did not read SASPU National, that he had not seen Exhibit C52, and that Billy Makopo only joined his class after the March meeting.

In the absence of any evidence (and none was led) to show that COSAS undertook activities prior to March 1984 of which the witness was aware, there are no grounds for rejecting his evidence that he was not aware of COSAS having a presence in Thabong prior to March 1984.

- 8.6.3. The averment in paragraph 1.14.5 (Betoog page 740) that Moloi must have attended more than one COSAS meeting is not based on any evidence, and no valid reason has been advanced for rejecting his evidence to the contrary. There is nothing to show that he was a political activist, or that he moved in COSAS circles. In the absence of

such evidence there is no reason for him to have sought out the chairman of COSAS to enquire about what COSAS was doing.

8.6.4. The criticism in paragraph 1.14.6 of the Betoog (page 740) is also without substance. His explanation as to why he thinks a committee was not elected is not shown to be incorrect.

8.6.5. His explanation of the proceedings at the meeting was not contradictory. In his evidence in chief he made it clear that here were two main purposes for the meeting. First, to get people to join COSAS, secondly to explain to the scholars what COSAS would do for them.

Moloi: Vol 389 p22524 lines 13 - 21
p22515 lines 13 - 28

The cross-examiner put only part of this evidence in cross-examination and was corrected by the witness.

Moloi: Vol 390 p22543 lines 8 - 19

Despite this, the argument is advanced in paragraph 1.14.7 of the Betoog (page 740) that Moloi contradicted himself as to the purpose of the meeting: a submission which is not borne out by the evidence.

8.6.6. It was suggested to the witness that his evidence that scholars were called 'pigs', 'dogs' and 'kaffirs' had not been put to any witness. Yet, it was put to W/O Hugo at Vol 118 page 5924 lines 29 - 31 that derogatory language was used by the white teachers.

8.6.7. The grievances put to W/O Hugo were that:

(i) There were difficulties concerning the headmaster and a teacher called Rossouw and other white teachers.

Vol 118 p5924 lines 17 - 26

(ii) That white teachers referred to the scholars as 'pigs'.

Vol 118 p5924 lines 29 - 31

(iii) That Mr Rossouw kicked one
of the scholars in the
stomach.

Vol 118 p5925 lines 9 - 12

(iv) That there were no science
teachers.

Vol 118 p5924 lines 27 - 28

(v) That one of the teachers
insisted on teaching in
Afrikaans though it was an
English medium school.

Vol 118 p5925 lines 1 - 6

8.6.8. Moloi did not take science and was
unaware of a complaint concerning
science teachers.

Vol 390 p22546 lines 24 - 28

He confirmed the grievances
concerning the use of derogatory
language, the role of Rossouw and in
particular the kicking of a scholar,
and the use of Afrikaans.

Vol 390 p22545 lines 26 - 30

Vol 389 p22518 line 3 - p22520 line 22

8.6.9. What he had heard was that the scholar had been kicked from behind and not in the stomach.

Vol 390 p22550 lines 2 - 28

The other matters referred to in paragraph 1.14.12 of the Betoog (page 741) were not raised in the cross-examination of W/O Hugo. They may have been grievances of a general nature in Welkom. Moloi referred to specific grievances at Teto High School.

Bearing in mind that the meeting in July had been called by the headboy to discuss serious complaints that the scholars had concerning a teacher, and was as such a school meeting and not a COSAS meeting, it is not surprising that nobody raised the issue of COSAS. COSAS had done nothing since March, and it is in that context that his answer that

'ek het nie soveel ag geslaan op hierdie organisasie nie. Ek het eintlik al vergeet van die organisasie' must be understood.

Vol 390 p22548 lines 17 - 30

8.6.10. The submission that it is absolutely improbable that the scholars would have had a march for a distance of 120 metres only is not well-founded. It must be assessed in the light of the fact that there is no dispute about the fact or duration of this particular march.

9. The Existence of COSAS in Thabong

9.1. Reference has already been made to the evidence that Lekota spoke to a COSAS committee in Thabong during late 1983. In addition, it seems to be common cause that Lekota was invited to the funeral of 11 August 1984 by a representative of COSAS.

However, there is no evidence of exactly how strong COSAS was in the area and how good its organisation was.

9.2. There is also the evidence of the witness Moloi about a COSAS meeting in March 1984 which he attended and which was chaired by one Kwetle. He says that Kwetle explained that the organisation would help with the problem of age limits, and other matters. He said that he joined COSAS and received a membership card. It was decided that certain matters would be taken up with the principal.

Vol 389 p22513 - p 22516

9.3. It is clear from the rest of his evidence that he is aware of no further COSAS activity. It is clear also that COSAS did not hold any further meetings of which he was aware.

COSAS Thabong does not appear to have been well organised or efficient in its work and no linkage has been shown between the activities of COSAS and the unrest that occurred.

10. There is no evidence of any UDF structure or committee in Thabong. The fact that COSAS invited Lekota to the funeral of 11 August 1984, tends to support the suggestion that there was indeed no UDF structure there.

The document AAW12 seems to refer to a structure of AZAPO which existed.

The witness Mochoangcheng says that he saw UDF and other posters advertising meetings at the sub-stations and so on. It is not clear from his evidence precisely when he saw them though he says that this was after August 1984.

11. Finally it is submitted that there is nothing to suggest that COSAS was responsible for the trouble in this area. Even if individuals such as Makhobo were prominent on occasions, there is no evidence to show that any of their actions were taken at the instance of COSAS. Moreover even if this were so, COSAS is an independent organisation and the UDF cannot be held responsible for what individual members of COSAS may have said or done in Welkom. The UDF had a marginal presence in this area only. The evidence is that Lekota urged restraint at the funeral of 11 August 1984.
12. It is submitted that the State has failed to prove the allegation made in the indictment against the accused in regard to violence that occurred in Welkom.