

SAAKNOMMER: CC 482/85

DELMAS

1986-03-05

DIE STAAT teen:

PATRICK MABUYA BALEKA EN 21

ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST EN

ASSESSORE: MNR. W.F. KRUGEL

PROF. W.A. JOUBERT

NAMENS DIE STAAT:

ADV. P.B. JACOBS

ADV. P. FICK

ADV. W. HANEKOM

NAMENS DIE VERDEDIGING:

ADV. A. CHASKALSON

ADV. G. BIZOS

ADV. K. TIP

ADV. Z.M. YACOOB

ADV. G.J. MARCUS

TOLK:

MNR. B.S.N. SKOSANA

KLAGTE:

(SIEN AKTE VAN BESKULDIGING)

PLEIT:

AL DIE BESKULDIGDES: ONSKULDIG

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KONTRAKTEURS:

LUBBE CPNAMES  
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VOLUME 40

(Bladsye 1850 - 1916)

IN THE SUPREME COURT OF SOUTH AFRICA

(TRANSVAAL PROVINCIAL DIVISION)

CASE NO. CC. 482/85DELMAS

1986-03-05

THE STATE

versus

P.M. BALEKA & 21 OTHERS

(10)

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J U D G M E N T

VAN DIJKHORST, J.: During his evidence-in-chief this witness testified that at the founding meeting of the Boiphatong Residents Committee on 15 August 1984 accused no. 11 reported on a meeting in Sharpeville which he had attended and where it had been resolved to request councillors to resign and that should they refuse to boycott their businesses and should that be ineffective to set fire to their homes. The witness stated that the committee then resolved to do the (20) same. At the end of his evidence-in-chief Mr Bizos moved that this evidence be struck out. His objection was that it is not set out in the indictment as amplified by further particulars and he relies on a ruling given by me on the evidence of Sergeant Branders of which I struck out a portion.

In the matter of the evidence of Sergeant Branders the objection was upheld on the basis that whereas the indictment and further particulars alleged that accused no. 20 promoted violence it excluded active participation in violence on his part. The State had there effectively bound itself to a (30)

set/.....

set of allegations by way of further particulars and I held it so bound and struck out the evidence. I also stated obiter that should I be wrong in my conclusion fairness dictated that the accused should be notified of specific acts of violence allegedly committed by them.

I will now deal firstly with the question whether the State has effectively bound itself by indictment and further particulars to a case which excludes the evidence to which objection is taken. The case for the State on this aspect concisely put is as follows: The aim of the ANC, SACP and (10) UDF is the unlawful overthrow and/or endangerment of the South African Government by violence, threats of violence or other means which include the use of force. They proclaim that this can only be attained if the masses in the Republic of South Africa can be persuaded to participate in a violent revolution, and therefore they call for politisation and activation of the masses to participate in violence. The accused, it is alleged, conspired to further the aims of the ANC, SACP and UDF aforementioned. They are therefore guilty of treason, alternatively terrorism, in terms of Section (20) 54(1) of Act 74 of 1982, the Internal Security Act, alternatively subversion in terms of Section 54(2) of the same Act. There is also a charge in terms of Section 13(1)(a)(v) of the said Act, furthering the aims of an illegal organisation, and there are also five counts of murder. I leave the latter two aspects aside.

In the charge of treason it is alleged that they with hostile intent towards the Republic and with intent to overthrow the government or to endanger it committed the acts set out in the annexure. In the charge of terrorism it is (30)

alleged/.....

alleged that they committed acts of violence set out in the annexure in paragraphs 30 to 77 or promoted or caused violence and that they incited and encouraged the Black inhabitants of inter alia Boiphatong to commit violence as set out in the annexure. In the charge of subversion it is alleged that the accused caused or promoted general disruption or disorder in especially the Black residential areas by the acts set out in paragraphs 1 to 77 of the annexure.

The acts set out in the annexure include a large number of meetings and a number of campaigns. In paragraph 66 one (10) of these campaigns is dealt with, that against Black Local Authorities which was allegedly waged countrywide by especially civic associations affiliated to the UDF and which succeeded in inciting the masses to violence which led to the destruction of property of black councillors inter alia, murder, general unrest and confrontation with the police.

The State, when calling this witness, told us that the evidence he would give would be dealt with in paragraphs 72 and 77 of the annexure to the indictment. Mr Bizos' argument was limited to the wording of paragraph 72 only, paragraph (20) 77 dealing with the riots themselves. Paragraph 72 deals with Boiphatong in particular, the founding of its area committee on 15 August 1984, accused no. 11's involvement therewith and the mass meeting on 26 August 1984 arranged by it are set out. It is alleged that speakers there under the chairmanship of accused no. 11 incited the audience to violence. Paragraph 72(2) sets out that at the committee meeting of 15 August 1984 it was decided to hold the said mass protest meeting to mobilise the inhabitants to participate actively in "versetakies", acts of resistance against the increased (30)

rents./....

rents. No particulars were requested to this sub-paragraph separately.

To paragraph 72 as a whole a request was directed and of this request paragraphs 33.1 to 33.3 might be relevant.

The said paragraph 33.1 reads in part:

"Is it alleged that there was a specific plan or decision to promote the active participation of the Black masses in 'onluste, oproer en/of geweldpleging in die Swart woongebiede in die Vaal Driehoek'?"

The reply to this question refers to the answer to paragraph(10) 28 of the request. This paragraph 28 gives a reply which is inapplicable here but refers to paragraphs 27.6.1, 27.6.4 and 27.6.5. Paragraph 27.6.1 refers to paragraph 9 which in turn deals with the aim of the UDF. Paragraph 27.6.4 reads as follows:

"Elke beskuldigde het direk sowel as indirek deur deel te word van die sameswering en die nastreef van 'n gemeenskaplike doel en om Swart plaaslike besture te vernietig as deel van opset om die regering van die Republiek van Suid-Afrika buite parlementêr te vervang(20) met 'n sogenaamde demokratiese regering van die massas en deur die kampanjes teen die regering se beleid en wetgewing te voer en die massas op te sweep teen en raadslede en stelsel van Swart plaaslike besture te tipeer as verwerplik en veraaiers van die Swart massas, geweldpleging aangemoedig en raadslede geintimideer. Sien paragraaf 8 supra."

Paragraph 8 here referred to inter alia has the following pertaining to accused nos. 4 to 18 and accused no. 22, I quote it in part:

Beskuldigdes/.....

"Beskuldigdes 4 tot 18 en 22 was minstens bewus van, en het hulle vereenselwig met die doel deur hulle samewerking met die UDF en as lede van liggame wat met UDF geaffilieer is en aktief saamgewerk het in die Vaal Driehoek teen die regering en Swart plaaslike besture en om die Swart plaaslik besture in die Vaal Driehoek ten minste te vernietig soos meer in besonder in the Akte van Beskuldiging infra uiteengesit word."

Paragraph 27.6.5, to which I have also referred, in part reads as follows:

(10)

"Deur die propaganda waardeur die Swart massas in die Swart woongebiede opgesweep is teen raadslede en Swart Plaaslike besture soos in paragraaf 27.6.1 supra uiteengesit is het die Swart massas oorgegaan tot geweldpleging en was eiendom vernietig, raadslede vermoor en raadslede deur vrees en intimidasie gedwing om te bedank. Die Staat beweer verder dat hierdie geweldpleging wat ontketen was die direkte gevolg en uitvloeisel was van die sameswering soos in die Akte van Beskuldiging beweer word van die aktiewe organisasie, mobilisasie (20) en kondisionering van veral die Swart massas nadat georganiseer was vir en organisasies gestig of geaffilieer is deur en met UDF en onder UDF se leiding.

Die Staat beweer verder dat die beskuldigdes, hetsy as lede van die bestuurstrukture van UDF of as lede van organisasies wat met UDF geaffilieer het of aktief UDF aktief ondersteun bewus was van die organisasie en mobilisering van veral die Swart massas rondom die verskillende kampanjes van UDF in die Republiek van Suid-Afrika en hul vereenselwig het en aktief meegewerk (30)

het/.....

het in ten minste die Vaal Driehoek met die algemene doel om deur die organisering en mobilisering van die massas en verskillende organisasies onder UDF se leiding die massas, en veral die Swart massas, tot geweldpleging op te sweep en te lei om die Republiek van Suid-Afrika of dele daarvan onregeerbaar te maak."

In these paragraphs that I have referred to the State has not disavowed an intention to rely on the type of evidence placed before us pertaining to the resolution by the Boiphatong Residents Committee. By the paragraphs dealt with by me in (10) my opinion the State has not bound itself.

This brings me back to the general paragraph 66 which referred to the campaign to utilise inter alia the Black Local Authorities Act to mobilise the masses to violence. Paragraph 66(7) reads as follows, I quote the first portion thereof:

"En is hierdie spesifieke kampanje op 'n landswye basis deur veral burgerlike gemeenskapsorganisasies wat met UDF geaffilieer is in Swart woongebiede opgeneem en gevoer."

To this paragraph a request for particulars was directed, (20) being request 27.6.1. It reads as follows:

"Is it intended to allege that the UDF, or any organisation affiliated to the UDF ever took any decision to encourage or bring about the violent conduct with the results detailed in this paragraph?"

And then follows request 27.6.2:

"If so full particulars are required of the precise date of each decision, the precise place of each decision and names of all persons who were involved in making such decision." (30)

Insofar/.....

Insofar as it can be argued that the evidence does not indicate affiliation by the Boiphatong committee to the UDF this argument fails as the State in paragraph 72 alleges that this committee was founded by activists of the VCA and UDF and paragraph 66(7) and the request should be read in this light. The answer to request 27.6.1 and 27.6.2 is, as I have stated, merely a reference to paragraph 9 which, as I have said, deals with the aims of the UDF. Reading this answer to this question it is clear that the State disavows reliance on a specific resolution to commit violence in this respect. The (10) State is bound by these particulars. The evidence should therefore be struck out.

In passing I wish to state that too much was made in argument of my obiter remarks in my judgment on the evidence of Sergeant Branders. They pertained to the commission of actual violent acts by accused no. 20. I do not wish to be understood to have said that evidence should be pleaded or that no facts outside the indictment can be placed before Court. When occasion arises no doubt I will be called upon to deal with this issue. This is not the time to do so. (20) A reference to the Appellate Division decision in S v DE BEER 1949 (3) SA 740 (A) at 745 and 746 is apposite. The objection is upheld. The evidence pertaining to the resolution of the Boiphatong Residents Committee that houses of councillors would be set alight is struck out.

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COURT: Mr Bizos was this not a report back date of Mr Tip?

MR BIZOS: Yes My Lord he is here present and almost correct.

COURT: I look forward to his report back.

MR BIZOS: Well let him speak for himself My Lord.

MR TIP: My Lord I have the first instalment of admissions prepared. Unfortunately I was unable to consult with two of the accused present today before the Court began and would be glad of an opportunity to do that during the tea adjournment.

COURT: Well would you like some time until lunch and after the luncheon adjournment you can tell me what your position(10) is. That would give you more time.

MR TIP: Yes My Lord, I anticipate being able to deal with it in the tea adjournment.

COURT: Very well I will call on you again.

MR TIP: Thank you.

PETER MOHAPI: d.s.s. (Through Interpreter)

FURTHER CROSS-EXAMINATION BY MR BIZOS: You recall that the question that I asked you at the conclusion of the proceedings yesterday was that whilst you were in detention in December and January and before you made your statement you knew that (20) the security police believed that you and accused no. 11 were responsible for the attack on the house of Mr Mpondo? -- Yes.

Yes, is the answer yes you were aware of it? -- Yes.

Now you, did you in fact make a statement to the police about your movements on 3 September at the time when you and accused no. 11 were arrested? -- I did make a statement which they said they are not accepting, it is not a statement.

Well they may not have wanted to accept it but I am going to ask you about the contents of that statement. Did it deal with your activities or what you did on 3 September? -- Yes (30) I explained that.

Yes./....

Yes. But now I want you to please tell His Lordship whether what you told His Lordship you saw happen on 3 September was the same as what you said in that statement that you made to the police when you were arrested in September? -- What happened is at the time of my arrest in September I did not get the opportunity of explaining everything, the reason being whilst I was still explaining they decided to stop me and say this was no statement at all. Therefore it will not be exactly the same with what I have told the Court after my arrest now. (10)

I see. Well were you not telling them the truth in September? Why did they stop you? -- They were interested into how was this house set alight and I was explaining to them what I know happened to this house on the 3rd, that is when the house was attacked with stones. For the fact that I was relating about the throwing of the stones at this house which thing they were not interested in they then stopped me.

Did you sign a statement in September? -- I did agree to sign that incomplete statement which they later said it was no statement at all. (20)

Did you sign or did you not sign? -- I remember signing it.

Well did not that statement deal with your movements on 3 September? -- It was explaining my movements on 3 September.

Yes. From the morning to the time that you went home? -- Yes.

So it was complete to that extent that as far as you were concerned you had given all your movements and what you had seen on 3 September in that first statement? -- Yes.

COURT: Did it give exactly what you did on 3 September (30) and exactly what you saw on 3 September in toto? -- I did  
make/.....

make mention of my movements on the day in question in that statement but I did not have the opportunity of making mention of each and everything that happened that I knew about because they did not give me that opportunity, they were interested in the burning of the house.

MR BIZOS: But did you tell them, well let us take it from another side. The house of ....

COURT: Now where is this leading us Mr Bizos?

MR BIZOS: My Lord I ....

COURT: Where are you going? (10)

MR BIZOS: My instructions are that some of the evidence given to Your Lordship in relation to those events from this witness is not correct and I have specific information in relation to the contents of that statement which is contradictory.

COURT: Yes very well, go ahead.

MR BIZOS: Mr Mpondo's house was burnt at night, is that correct, is my understanding correct? I am not suggesting that you know about it, from what you have heard? -- Yes from what I heard in fact I was going to say I am not aware of it being set alight during the day, it must have been set alight (20) at night.

Right. Now, but you in your statement did you give in your statement what you saw happen during the day? -- Yes.

Everything? -- You mean everything about the house or everything in what sense?

No everything that happened on the 3rd, during the day, that you saw.

COURT: That whole day, he has already said he did not put it in his statement because these people were only interested in the burning of the house. (30)

MR BIZOS: Well My Lord I understood his evidence to be  
contradictory/....

contradictory in relation to that. That is what the answer to your ...

COURT: No I asked him specifically to clear it up because you had a double-barrelled question and then he said well they were only interested in the burning of the house.

MR BIZOS: I will leave it at that, as Your Lordship pleases. When you made your statement in January were you shown your previous statement, the one that you made in September? -- When I made my statement then they were not interested about the house of Mr Mpondo, or the burning of the house of Mr (10) Mpondo. They were only interested in what they wanted to know from me pertaining to them.

Alright. I will leave that there for the time being and I will come back to it later. But I want to go back to the meetings because my attention has been drawn to certain documents. Could you please have a look at document AT 6.

COURT: AT?

MR BIZOS: AT 6. Yes perhaps we could, we have an extra copy to put before the witness.

COURT: Well you will just have to wait until I get mine. (20)

MR BIZOS: As Your Lordship pleases.

COURT: I think you should give my Registrar better advance notice Mr Bizos, it will help.

MR BIZOS: I am sorry My Lord, yes.

COURT: I am instructed we do not have that document.

MR BIZOS: It is possible My Lord ....

COURT: It is also not in the possession of my Registrar it seems.

MR BIZOS: Yes I think I now remember My Lord.

COURT: Have you mixed up your numbering? (30)

MR BIZOS: It was given to us for the purposes of admissions,  
as/.....

as having been found in the possession of accused no. 11, which we admit, which we will formally admit in due course. That is why Your Lordship has not got it. I am sorry, I have just been told that this is how we came to be in possession of it.

COURT: Very well. Now can I have a copy please?

MR BIZOS: If Your Lordship would accept that for the time being and copies will be made.

COURT: Just a moment then. Mnr Fick wat die nommering van die dokumentasie betref is die nommer reg want dit is nou 'n nuwe bewysstuk en so normaalweg inneem as AAQ(8) of wat (10) ookal.

MNR FICK: Edele ek weet eerstens hoe lyk die dokument nie. Ons het geen kennis gekry dat na enige dokumente verwys gaan word nie. Ek het nie 'n idee watse dokument is dit nie.

COURT: Our documentation goes up to AN, is it not?

MR BIZOS: AN that is correct.

COURT: And how do you get to T?

MR BIZOS: My Lord that is how it was given to us.

MNR FICK: Edele met respek hierdie AT is nie My Geleerde Vriend mnr Hanekom se skrif nie. (20)

MR BIZOS: My Lord I am instructed that we have been given documents up to AW. It may be we have been favoured in this respect. AAW, we have been given apparently more documents...

COURT: Is it now double A. Now what is the number? AAW or AAT or ....

MR BIZOS: No this has a number on it AT 6 and that is not a number which we gave, that is a number that we were given the document.

COURT: Well normally I would just give it a new number and not be concerned with your numbering. Enige beswaar daarteen mnr Jacobs? (30)

MNR JACOBS/....

MNR JACOBS: Edele kan ek net vra dat, ons het 'n indeks wat ons opgestel het. Ek mag die Hof inlig dat daar is dokumente wat ons nie kon afdrukke van maak nie en wat by beskuldigde persone gekry het, waar ons net die dokument gaan inhandig en ons het dit genommer vir doeleindes van die erkennings. As ek net my indeks kry dan kan ek, ek het ongelukkig nie voorberei hiervoor nie, dat dit gaan kom nie. Maar kan ek vir die Hof sê wat die AT dokument is op ons indeks en wat tot watter nommers ons ...

COURT: Mr Bizos can you go on on a different subject for (10) a while until this is sorted out because if I give it a different number it may well be that we get mixed up later on.

MR BIZOS: As Your Lordship pleases.

COURT: And if I give it this number I will not be happy with it if it is not part of the sequence.

MR BIZOS: As Your Lordship pleases, let me try. I will leave the meetings again and I will come back to the 3rd. Now Mr Mohapi would it be correct to say that your committee intended this march on the 3rd to be a peaceful and orderly march to Houtkop? -- Yes. (20)

And did you as a committee hope and believe that the people of Boiphatong would answer to your call and peacefully gather at the square? -- Yes.

And you hoped to march from Boiphatong in an orderly fashion up to Houtkop? -- Yes.

And could you give us the distance that the people of Boiphatong were prepared to walk to Houtkop? -- It is quite a long distance. I do not know what the estimation would be.

Over ten kilometres? -- Yes.

Yes. And that was because you believed the people of (30) Boiphatong felt very strongly about this proposed increase in rental?/....

rental? -- Yes.

And you believed that the greater the number of the people that turned up from Boiphatong and the other areas, and the other areas, the greater the impact would be on those making the decisions? -- Yes.

And you had no intention whatsoever that anybody's property should be destroyed? -- Not at that time. I just never occurred to us that there can be a destruction of property or a violent act can be committed.

And you were going to go with placards and you were (10) going to sing "Siyaya e Houtkop" until you got there? -- Yes.

And you hoped that as you were marching along from the square people from Boiphatong and along the way would join you in order to make the numbers even greater? -- Yes.

Now I am going to put to you what in fact happened from early morning in Boiphatong and I want you to please tell His Lordship whether you know about it?

COURT: Of your own personal knowledge.

MR BIZOS: Did groups of people, some groups of three or four, sometimes five or sometimes ten or sometimes fifteen, start (20) going onto the streets and start walking towards the square? -- I do not know of groups that were walking in that fashion to the square, I am not aware of that. I went to the square where I met John Mokoena and Sotsu in order to complete our agreement.

How far from the square do you live? -- It is not very far. It can be that you pass two streets before you come to the street in which I live.

Did you see or did you hear, see or hear during that morning that there were two Land Rovers with policemen with (30) sjamboks?

COURT: /....

COURT: Hear from other people or hear the noise of the Land Rovers?

MR BIZOS: No, hear from other people, generally, what was happening. There will be direct evidence. It is his knowledge that I am concerned with. There will be direct evidence of it but his knowledge may be of some importance. -- I heard about that but at the time when I came there it had already happened.

Yes. Well is what you heard that the two Land Rovers with the police with sjamboks were sjambokking the small (10) groups of people that were walking towards the square?

COURT: Now when is he supposed to have heard this?

MR BIZOS: On the morning when he arrived.

COURT: When he did arrive at the square?

MR BIZOS: At the square. I will put it more specifically in relation to accused no. 11 as well.

COURT: Yes. -- Yes I heard that.

Did you hear that when you arrived at the square? -- Yes.

MR BIZOS: Let me remind you of how you might have heard it. Do you recall that a member of your committee or one helping (20) with the organisation was actually injured? -- I heard about that, it was not a serious injury except that of course he sustained some injuries as a result of being hit.

Yes. Yes you are correct it was not a serious injury. And do you recall, you say that accused no. 11 had two or three placards, do you recall whether you were told whether he had more placards than that and what might have happened to them along the way? -- Yes it was explained to me as to what happened to the others.

COURT: Did accused no. 11 explain it to you? -- Yes. (30)

MR BIZOS: What had happened to the other placards? -- What  
he/.....



he explained to me was he had more placards than what he has at the moment but when the police came there they had to hide them away so in hiding them away some of the placards were taken by the police and destroyed. That is why he had that few he had with him at the time.

Was that at the square or as he was coming to the square?  
-- From what I heard it is prior to their arriving at the square, on their way to the square.

Did he tell you that he was a member of a small group such as I have described previously but that they had been attacked (10) by the police from this Land Rover?

COURT: Is this evidence now alleged to explain a retaliatory attack by accused no. 11?

MR BIZOS: No, no on the contrary.

COURT: Now on what basis do you place this evidence before the Court?

MR BIZOS: No, not on the basis of a retaliatory attack because accused no. 11 will tell Your Lordship that he did not attack anybody. But the State case is that this action, these actions arose out of the meetings. Our case is going to be in re- (20) lation to the Boiphatong issue that it was, whatever effect it may or may not have had, the speeches may or may not have had the anger of the people gathered in the square towards the police vehicle, towards the police vehicle that appeared, that the witness has given evidence of, was as a direct result of what members of the police had done to them immediately before and not as a result of any incitement by any of the accused.

COURT: No doubt you will lead that evidence in good time Mr Bizos but how does it help me to determine whether the police did or did not do something by all this hearsay (30) evidence?

MR BIZOS:/.....

MR BIZOS: No, but My Lord the state of knowledge of the people in the square, the state of knowledge of the people in the square as to what had happened earlier we submit is relevant to the acts of the, of a portion of the crowd. Your Lordship will have to decide.

COURT: Well that would be relevant then, the state of knowledge of that portion of the crowd to the acts done by that portion of the crowd. But the evidence by this witness is that he did nothing.

MR BIZOS: No, but My Lord what the crowd or portions of it (10) knew may explain their behaviour.

COURT: Yes but I understand your case to be that accused no. 11 did nothing, that Sehotso did nothing and that this witness did nothing. Now how is their knowledge relevant?

MR BIZOS: No. My Lord because I hope to get from the witness that he was not alone in knowing this, that this had become common knowledge among the people in the crowd and that the people in the crowd became very angry as a result of what they themselves had suffered or what they had heard others had (20) suffered. We are being held responsible, the accused as a whole, and not only accused no. 11, are being held responsible on the indictment for this outbreak of violence. We submit that every act that was committed by every person which is sufficiently connected as to time, place and circumstance is relevant for a correct decision at the end as to what was the cause or even if there had been any form of encouragement at any meeting as to whether or not there was, if I may use the slogan, a nova causa interveniens.

COURT: Well why do you not ask this witness why was the (30) police vehicle attacked? It may he does know, maybe he does not/.....

not know. If he does not know then this is a lot of hearsay.

MR BIZOS: No but My Lord hearsay plays a very important role, with the greatest respect, on the state of knowledge of people.

COURT: Of knowledge of this particular witness, yes.

MR BIZOS: This witness ....

COURT: And accused no. 11 and Sehotso, those three.

MR BIZOS: No My Lord, with respect, but also what I am hoping to get from the witness, if I am allowed to develop it, was whether the people in the crowd knew about these attacks by the two police vehicles and what the effect on the people in (10) the square was, and our case is going to be that whereas accused no. 11 could restrain himself there were apparently others who were not able to do so.

COURT: Yes but unless you start at the end we may be wasting a lot of time Mr Bizos in this roundabout way, and then I will strike out the evidence.

MR BIZOS: No, with the greatest respect I am entitled to start off with the witness' state of mind and then ask him what the state of mind of the other people who were there and the fact that a report was made to him that a person was (20) injured, that the placards were destroyed, are all circumstances which lend credibility to the fact that we hope to establish to the Court's satisfaction, namely that there was this novus actus interveniens that angered the crowd.

COURT: Yes, well very well, let us see how far you go.

MR BIZOS: As Your Lordship pleases. Now you told us that a report was made to you that the placards were destroyed. Were you told that accused no. 11 and the people that were accompanying him to the square in order to avoid the sjambok charge by the police had to jump over fences? -- Yes he explained (30) to me that they ran away when the police came at the scene.

And/.....

And that they were, the members of his group were sjambokked? -- Yes.

And that Mr Mbongo, M-b-o-n-g-o, was actually injured when he was trying to jump over this fence? -- Yes that was explained to me.

Right. Now was there or were there other reports being made to small groups of people waiting in the square by others as they were coming to the square? -- No I did not hear what people were reporting about what was happening in the township. At the time there we were busy trying to arrange ourselves (10) for a march in order to proceed.

At what time would you say you got there? -- I cannot remember exactly as to what time it was when I arrived there but what I can say is it was after eight.

After eight. And how many people would you say were there when you arrived? -- On my arrival there there was a group and then I went up to join Mokoena and Sohotso who were standing aside from the group.

And was the turnout as much as you expected or was it less? -- In view of the fact that when I came there the (20) police had already been there and as a result of which people had to give way and run away I will say that the group of people there was in fact a bigger group than it was at the time when I came because people had to run away and those that were there were the people who remained from the group, and therefore I will say they were quite a good number.

Yes. But was the turnout less than you expected? -- Yes it was.

Did you ascribe this as a result of the reports and the talks that you heard there to lack of interest on behalf (30) of the people or did you blame it on the attacks by the Land

Rovers/.....

Rovers that you had heard of?

MNR FICK: Edele, met respek die Staat maak beswaar teen die vraag. Ek weet nie wat het die man se opinie werd nie. Hy weet nie van die een voorval van die Land Rovers nie en hy word gevra wat is sy opinie daarvan.

MR BIZOS: My Lord the question related to what were the discussions among you, what did you ascribe this to in your discussions.

COURT: Well please formulate the question exactly.

MR BIZOS: Yes. Did you discuss, you accused no. 11 and (10) the other people, did you discuss what the cause, what the possible cause was for the smaller number of people than those expected by you? -- We were not really worried about the attendance of the people, whether the number was great or not. What we were worried about was the completion of the mission in this respect that we had to do it. Although of course we did anticipate that the police could be there.

Yes. And was your attitude that you would march, that you were not going to be violent or in any way obstructive but you would have an orderly march? -- That is what we had (20) in mind but we also anticipated police being also there because once they see a group of people then the police would automatically be interested to know why is there a group of people.

COURT: Could I just ask you one aspect that is bothering me? You were concerned with a peaceful march? And you were concerned with the completion of your mission. Why, when a police vehicle arrived did everybody set out in pursuit either of the police vehicle or of councillors homes and you running after them? -- The reason why we had to run after them and follow the direction they were taking was because of the (30) pre-arrangement amongst ourselves that seeing that we can

no/....

no longer control this crowd the people are doing their own things, we must at least follow them and supervise what they are doing. That was the purpose why we had to run after them.

MR BIZOS: Well let us just take a portion of His Lordship's question to you. Did everybody in fact stone the police vehicle or did only a small part of the crowd stone the police vehicle? -- At the time when this police vehicle emerged at the square we were already in a group about to start with our march and from the group which was about to proceed in this march a small group of youths broke out and started stoning the (10) police vehicle.

How big or small would you say that this small group was, how many people out of the total did that? -- I am not in a position to tell you in number as to how many there were but approximately their group could have made up a soccer team.

A soccer team.

COURT: How big are your soccer teams in Boiphatong? -- A team is about eleven.

I would like to ask you one more question on the previous aspect. You said that you had arranged, you ran after the (20) others because of the arrangement amongst yourselves that as you could not control the crowd you had to run after them and supervise what they were doing. Now my question is what did you do to stop the attack on the homes of the, on the home of the councillor and on the shop of the councillor? -- What I mean is we ran after them just to go and see what they are doing because of their violent attitude at the time, we were not in a position to stop them from doing anything.

MR BIZOS: Now you told us that the group that threw stones at the police vehicle was about ten, eleven people. The (30) number of people that were throwing stones at Mr Mpondo's house, /....

house, how many were they? -- It was a group of people, not a very large group. I am not in a position to tell how many in number.

Now Boiphatong is a relatively small community is it not?  
-- That is so.

Can you tell His Lordship whether, first of all the age group of this small group of people that were throwing the stones, what was their age? My Learned Friend wants me to make it clear. I am talking about the group that was throwing stones at the house, what was the age group? -- I am not in (10) a position to say what age group are they except to say well they are still of the school going age and they were young boys I would refer to them.

Would teenagers be a correct description? -- Yes.

Now are you able to tell His Lordship whether these teenagers were of Boiphatong or the neighbourhood or whether they appeared to be strangers? -- I am not in a position to say whether they were from Boiphatong or from the neighbourhood or from outside Boiphatong as strangers, the reason being that you know when a group of people is together and there is (20) some action going on you are not in a position to always see proper or take a proper note of seeing who the people are and from where they are.

Yes. The word that you used, the word that you used as to what you and accused no. 11 and the others that followed them was to supervise. Is that really a correct word that you intended to use, to "supervise" or to just look at?

COURT: I am sorry what was the last part of your question?

MR BIZOS: Or to look at?

COURT: Supervise, look at. (30)

MR BIZOS: In the sense of look at My Lord, and not to direct.

May/.....

May I make it quite clear My Lord?

COURT: Yes.

MR BIZOS: Did you intend that you wanted to direct that they should throw the stones correctly or merely to look what was hapening, what were you following them for? -- The idea of our following them was that perhaps we might be in a position to find them where they have decided, to stop what they were going to do and then be able to get them in a group again to go and proceed with our march.

COURT: Did you at any stage shout to any of them to stop, (10) to come along and to rejoin the march? -- There was no opportunity for us to do that because immediately after attacking the policeman's house with stones they ran into different directions. Some ran towards the bottlestore and some ran towards the house of the councillor Mzunga.

Well those that you found on your way did you shout to anybody "Come along, rejoin the march we want to get started"? -- There was not time to shout at them and call them to come back because at some stages the police also emerged there with some teargas and rubber bullets. (20).

Did you hear accused no. 11 at any stage call upon anybody to stop this rioting and rejoin the march? -- No I did not hear him saying that, I believe it is because of the lack of the opportunity of having done that.

MR BIZOS: Would you have wanted these people to join your march anyway in view of what they had done? -- We had in mind that maybe we can sort of have a control over them but it later appeared that they were rather too violent at some stage.

Was the idea of the march abandoned? -- As time went on during the course of the day we realised that because of the (30) time factor we cannot make it.

Well/....



Well did the fact that the people, some people went behind these young people or others dispersed, did any considerable number of people remain in the square? -- I cannot say that were certainty but from my judgment the greater number is the number which dispersed from there.

COURT: Did the greater number start dispersing immediately after the police vehicle had fled? -- Yes.

MR BIZOS: Do you not recall that after the vehicle, the police vehicle was stoned an attempt was made to get the march on the way by a number of your leading away from the square with (10) the one or two placards and starting to sing "Siyaya, siyaya e Houtkop"? -- That is true, we did try that in order to get them away from the square and proceed with the march. But because they were now strongly violent after having hit the police vehicle they did not join us, instead they went to the councillor's house nearby there, that was Councillor Mpondo's house.

Mpondo's house. But you do recall that you and accused no. 11 actually tried to start off the march after the police vehicle was stoned by the small group in the hope that you (20) would be followed onto the march? -- Yes.

Of course Mr Mpondo was not only a councillor but a member of the security police? -- Yes that is true.

Was that the fact that he was a member of the security police well known to the community? -- Yes I can say with safety that most of the people in the township knew that he is a member of the security police.

COURT: And the other councillor, what was his job? What was he, Mzunga? -- I do not know what his job was. All I know is that he was owning a fish and chips shop. (30)

MR BIZOS: Now when this small group stoned the police vehicle  
the/.....

the police vehicle withdrew? -- It made a fast turn and left.

Could you tell us how long after the police vehicle left Mr Mpondo's house was attacked? -- I am not in a position to tell how long exactly it took, but it was not long after the police had made a turn that Mpondo's house was attacked.

C115 Were you or accused no. 11 or anyone else able to control this small angry and apparently violent group? Could you have done anything? -- We never thought that they would be that angry and that violent, but as a result of what had happened there by the police and on judging the situation later we (10) realised that we are not in a position to control the people any more.

As a result of what happened later? -- Yes.

After the 3rd? That you realised that you could not control the people anymore? -- I am talking about the 3rd and not after the 3rd because then there was no benefit for us to start going to Houtkop again because some people had been injured and some were dead.

Yes. Perhaps it is a question of language. As a result of what happened on the 3rd you realised that you could not (20) control the people thereafter? -- Yes that is true.

What do you think might have happened to you if you went in front of Mr Mpondo's house and raised your arms and said "Stop this", what do you think might have happened to you as a result of the way you saw the crowd there? -- According to my judgment there I would not have done that because they would have easily assaulted me with the stones or stoned me in fact, or I could have got killed in front of that crowd which was so violent.

Whilst they were throwing stones were they quiet or (30) were they shouting and screaming? -- They were shouting, making noise/.....

noise, including singing.

Would any single call have had any effect on that small group of people? -- No not a single call, except for the police, yes.

I am going onto another topic, I do not know if Your Lordship wants to ...

COURT: Have you sorted out the question of the numbering of the exhibits yet?

MNR JACOBS: Ja Edele die bewysstukke sal ingehandig word. Ek het die oorspronklikes dan ook hier gebring wat ek vir die (10) Hof sal gee.

HOF: Ons sal dit na tee behandel dan. Is die nommer korrek?

MNR JACOBS: Die nommer is korrek.

COURT ADJOURNS FOR TEA. COURT RESUMES.

MR TIP: As it pleases Your Lordship. My Lord the first batch of admissions has now been approved by all the accused save of course for accused no. 17 who is not present today. I have every confidence that he will have no difficulty with the admissions set out in this document but it will of course be necessary to obtain his approval when he returns. The (20) other accused have signed the document. A copy has been handed to the State. In order to ensure that there are no possible disputes at all about the formulation the State requests an opportunity just to read through the document to satisfy themselves as to that in order to avoid having to tax the Court with any disputes of that nature. In those circumstances I wonder if it would be convenient if the document itself were to be handed up to Court tomorrow morning.

COURT: Yes, together with the second instalment?

MR TIP: The second instalment is being worked on. In that (30) regard perhaps I might address Your Lordship very briefly.

I/.....

I have been this morning reviewing the draft of that. A portion of it relates to the schedule of organisations affiliated to the UDF. Our draft has been formulated along the same lines as those requested by the State which is simply a bald admission that these organisations are affiliates. On reflection it seems to me that to make the admission in precisely those terms might not be of great utility to the Court because it does not set out the precise period during which the organisations were affiliates and I think it might be ....

COURT: If it is merely baldly stated it will probably cover(10) the period of the indictment and that might not be correct.

MR TIP: That might not be correct, and it is something that following the State's formulation I am afraid we did not apply our minds to either until this morning and in those circumstances it might not be possible to hand that up tomorrow morning.

COURT: But would it be very important at what stage each one affiliated if it was within a reasonable time from their coming into existence?

MR TIP: Yes My Lord, that is something that I think that we(20) should give our consideration to and if there are no difficulties that immediately present themselves in that regard that we will make the admissions in those terms.

COURT: Very well thank you Mr Tip.

MNR FICK: Ekskuus Edele, ek kan nou net ophandig bewysstuk, dit is BEWYSSTUK AT 6. Die probleem was hierdie dokument wat My Geleerde Vriend verwys het was een van 'n stel en die hele stel is gemerk AT 6.

HOF: Die hele stel is AT 6?

MNR FICK: AT 6. Ek sal dit uit die oorspronklike na die (30) Hof ophandig en ek sal ook fotostate van daardie dokument

oorhandig./.....

oorhandig. Die dokumente is binne in die koevert.

HOF: Wat is nou alles op hierdie koevert? Waarom is daar n 15 op?

MNR FICK: Edele nee dit is om die oorspronklike op te spoor by die polisie, dit is met betrekking tot die beslaglegging, dit is hulle nommer wat hulle aangebring het.

HOF: Wil u die koevert terug hê?

MNR FICK: Ons kan die koevert terug wat.

COURT: Dit sal my net verwar.

PETER MOHAPI: d.s.s. (Through Interpreter) (10)

COURT: What do we call this document? Apart from AT 6 what is it supposed to be?

MR BIZOS: It is an agenda or a part of the proceedings of the meeting of the 26th of August 1984.

FURTHER CROSS-EXAMINATION BY MR BIZOS: I just want to round off before coming to the document, the events of the 3rd. Shortly after the police vehicle was stoned away from the square was there a further police presence that was made felt to you, accused no. 11 and to the others in the township? -- After that I did not observe a policeman in that vicinity (20) who was on foot.

Yes. Well that is not what I meant. Was there shooting of gas canisters and rubber bullets and other police activity? -- At the square the police fled the crowd and then later when the groups took different directions to different places the police presence was noticed by me and it is then that the police started shooting teargas and rubber bullets.

Yes. And do you know whether accused no. 11 was involved in rendering assistance to any person or persons who had been shot? -- No that I did not see, I do not know. (30)

Did you separate? -- That is correct, at some stages we parted/.....

parted and separated, he would go somewhere and then I would be somewhere and then later after some time we would find ourselves meeting again somewhere.

Did you yourself try to render any assistance to any of the people who were injured? -- No not at the time when I was there. I did not notice anybody who was injured. I only came to know about it on hearing the following day that some people were injured and the names were mentioned.

Can you remember when you separated for the first time?  
-- For the first time it is when the police were there and (10) the people had to run into different directions.

COURT: When the police were where? -- What I am saying is the police were there at this township at the time. But what happened is the police would emerge from a direction and then to avoid the police one would take cover somewhere for the police to pass and then again go out, follow your direction which you intended going to. That is what I mean by saying when the police were there we parted company for some time until we met again.

Yes but did you part company before or after you came (20) to Mpondo's house or before after you came to Mzunga's house, before or after you came to his shop? -- On our way to Mzunga's house we parted company.

And did you meet again before you came to Mzunga's house?  
-- I find them at Mzunga's place.

MR BIZOS: At that stage when you say you found them who do you mean? -- Each time when this group was going to a place in most cases I was joining or I was always in the company of the committee.

But you and accused no. 11 you told me separated before (30) you went to Mzunga's house? -- That is true but when I came  
to/.....

to this group again there I found them there.

COURT: So are you saying that the committee as such followed the unruly mob from place to place? -- Yes because at Mzunga where I am talking about, when I say we were there I mean the members of the committee, namely myself, John Mokoena and Sehotso.

MR BIZOS: But are you sure of the answer that you have just give His Lordship, that you walked around as a committee from place to place? Because that is not consistent with your previous answer that you left accused no. 11 and you just (10) met him at Sehotso's house?

COURT: Actually they were dispersed by the police and re-joined. That is what he said.

MR BIZOS: Remember that, yes you were apart? -- Yes we were apart.

Yes. So that it would not be correct to say that you moved from one place to the other as a committee? -- That is not what I am saying, that we were together all the time until we reached that place. What I am saying is for instance when I came to a group to join or to see a group of people there (20) I always when coming to that group look for the committee members to join them where they are.

If they were there?

COURT: And you found them there? -- Yes.

Now did you find them at the beer hall? -- We did not go to the beer hall. We only went past the beer hall after having been to Mzunga's house.

Yes, now let us get clarity then. Where did you go first? -- Immediately, or I will say after the attack on the police vehicle with the stones we went to Mpondo's house, Councillor (30) Mpondo's house.

The/.....

The three of you? -- Yes following the group which was attacking the house.

Now after you went to Mpondo's house where did you go then? -- We were just following a group, that is a larger group, so what happened there is there were two groups, this group was divided into two. One group which was a larger group went to Councillor Mzunga's house. We then chose to follow that group.

Yes, so the three of you went to Councillor Mzunga's house? -- Yes.

Now after having been to Councillor Mzunga's house where(10) did you go? -- On our way from Mzunga's house we had to walk past the bottlestore which was already damaged and the police were there. So there was nothing happening. In fact the people had fled already so we went home.

Yes, now what about the shop of Mzunga? -- When we were on our way back home, it is after the house and the shop to Mzunga were attacked or damaged.

Well did you go to the shop of Mzunga after you had been to the house of Mzunga? -- Yes.

Were you together at the shop of Mzunga? -- Yes. (20)

When it was attacked? -- Yes.

Then you went home past the beer hall? -- Yes.

But that is not the shortest route to your home, that is right on the outskirts of the town? -- That is quite true. While being at the shop we could see that there is something happening at this bottlestore which is burning and therefore we decided on our way home to go and pass there and see what was happening.

So it was quite a detour you took to go and look there before you went home? -- That is true, yes. (30)

Now I have followed your route on the map while you have been/.....



been talking and I want to put it to you that you and the other two crossed the length and breadth of Boiphatong in pursuit of this unruly mob? -- That is true.

Yes, thank you.

MR BIZOS: Well what I am going to put to you is that if this may be true of you but it is not true of accused no. 11, that he lost you after the attack on Mpondo's shop, I beg your pardon Mpondo's home and from that stage on there was no, he was not in your company?

COURT: Is it put that he did not see him again? (10)

MR BIZOS: He did not see him again, yes that there was confusion.

COURT: That morning?

MR BIZOS: That morning, there was confusion and he did not see him. -- Well my evidence is we were together on our way to Mzunga's house, that is Councillor Mzunga's house. We parted company at some stage before we reached Mzunga's house. I later met them at Mzunga's house.

Well I am going to put to you that after the attack on Mpondo's house there was no grouping of the committee, and (20) certainly no grouping between you and accused no. 11, and that your evidence that you separated is correct but it became a permanent separation, at any rate for the 3rd? -- No, that is not correct.

Well whether you were in the company of accused no. 11 or not your description of two groups, do you mean that they split up altogether or even whilst there was an attack on Mzunga's house there were two groups there, that is those...

COURT: Just a moment. He said that the two groups split. The one lot went to the beer hall on the way from Mpondo's house (30) and the other lot went to Mzunga's house.

MR BIZOS:/....

MR BIZOS: What I am putting is this My Lord, whilst you were at Mzunga's house and before the attack on Mzunga's house had finished and before there was a split of the two groups ....

COURT: Well was the split not after Mpondo's house. The attack was on Mpondo's house and on the way to Mzunga's house a group split off and went to the beer hall.

MR BIZOS: Well did he say after Mpondo's house that there was a split.

COURT: That is the way I understood it.

MR BIZOS: I am sorry I understood it was Mzunga's house, (10) I am sorry that I introduced the split for this purpose but just forget about that and come back to Mzunga's house. Was there just one group there attacking, were they all attacking or was there a group attacking and a group acting as observers? -- The group which was attacking was busy attacking and at the time while this was taking place, while I was in the company of John Mokoena and Sehotso my attention was most of the time focussed on the damage which was being caused to the house, or whether there was a small group of people milling around or standing there as observers that I did not pay a parti- (20) cular attention to.

Now let us just deal with the people there. How many people would you say were outside Mzunga's house? -- I am not in a position to say in number as to how many people were there. All I can say it was a group.

Right. Now let me ask you this. Were you part of the group that attacked Mzunga's house or were you an observer?

-- I was one of the people who were there standing as observers because we the committee members were just to stand and look at what was happening. (30)

Now you may feel that there is safety in numbers by

introducing/.....

introducing the committee but let us take it on your basis. How many other people were there as observers? -- It was a group. How many I do not know.

Now, as observers? -- Yes.

Would it be hundreds or thousands or what was it? -- No I am not in a position to explain that except to say it was a group of people.

Now the group that was actually attacking and who were not observers, how big was that group? -- The same applies to them, I am not in a position to tell as to how big was the (10) group in number except to say it was a group of youths.

And you distinguish as the group that did the attacking as a group of youths. Were the observers the adults? -- I am not going to say only the adults were standing there as observers. There were young people as well. But what I can say is my attention was focussed most of the time on what was happening there.

You say that there were young people among the observers. Were there any adult people in the group that was doing the attacking? -- No I only noticed youth amongst the group which (20) was attacking.

COURT: When you speak of youths up to what age limit would you state are youths? -- Up to between eighteen and twenty years of age.

MR BIZOS: Although you cannot give us the numbers were the attackers a smaller or a larger group than the observers? -- From the observers I would say they were quite a number of people standing there as observers. How many in number I cannot tell. Now to compare that group with the attackers I would not be able to distinguish. All I am saying is (30) the attackers were also many.

The/.....

The youths were also many? -- Yes.

And whether you were standing there with or without accused no. 11 and Sehotso it does not matter but as you were standing there, as you were standing there did you do anything to encourage the attackers to carry on with their attack? -- I cannot recall talking to any one of the attackers there in order to encourage what was happening.

COURT: Was there, by the observers in general, shouting and singing and ululating? -- Yes from the observers there were people who were making noise there which noise was in fact (10) to encourage what was happening there.

MR BIZOS\*: Did you do that? Did you do anything to encourage it? -- No those people I just referred to were singing. Me and the people with whom I was standing there were not singing, we were not making any noise. We were just standing there.

Now was there or were there two distinct groups again when Mr Mzunga's shop was attacked? -- Yes that is true.

COURT: Now let us get clarity on what these, what do you mean by distinct groups. Do you mean that the observers stood to one side and the attackers to another side and the attackers (20) attacked and the observers stood watching or did the attack come from the midst of the observers? -- I am not saying that a particular group was meant only to attack. What I am saying is people would from the observers join the others who were busy attacking or originate from the observers in starting the attack, one of the two. But what I am saying is this it is not that some people were especially there as observers whereas the others were there as attackers. They joined each other here and there, especially at the shop where people wanted to loot the shop. So it was in fact joined by quite a number (30) of people from the observers I referred to.

So/.....

So did we have a mob of whom a portion attacked and the others looked on and some shouted and sang? -- That is so.

MR BIZOS: Did this group, when the attacks were taking place, of the youth, did they have anyone leading them? -- I am not in a position to tell the Court as to whether there was a leader of the attackers or not but what I can say is that these people were on agreeing terms on whatever they were doing, they were not arguing as to what is to be done and what not. They would just do a thing that they are all doing.

COURT: Would they do it together? -- Yes. (10)

What impression did you get? Did you get the impression that this was spontaneous or did you get the impression that these people had in advance thought about and decided upon what they would do? -- I am not in a position to tell the Court as to whether it was spontaneous or it was a pre-arranged thing but what I can tell the Court is whatever they were doing they were doing it with the understanding of each other, that is in the sense that they were agreeing on what they were doing.

MR BIZOS: When you say, or when you speak of this group (20) agreeing what they were doing are you referring to the youths? -- Yes.

And were they shouting and singing together? -- Yes.

COURT: Were only the youths shouting and singing? -- No even the bystanders there, there were those who were also singing with the youths.

MR BIZOS: When you described how this youth appeared to be agreeing to do it together would it be correct to say that although people from the spectators may join them from time to time did they appear to be a cohesive group, this group (30) of youths? -- Yes, to tell the truth that was the position.

And/.....

And when you say that they appeared to agree, let me see if I can give you an example. Would one of this young group say ....

COURT: You know Mr Bizos you have been referring to a group throughout but actually what the position is is there were a number of youths, part of a mob, attacking a house. Now you call them a group which creates the impression as if it was a number of people standing separate from the other lot of people, which is not the truth.

MR BIZOS: No well My Lord on this evidence, the evidence (10) of this witness he spoke of a group of youths which was a cohesive group, it is that cohesive group that I am referring to.

COURT: Yes go ahead. What do you understand under a number of youths forming a cohesive group? -- I do not really understand what is expected of me but in my language when people are described as described by His Lordship it is called sihlopa(?) which is the equivalent to a group.

What does sihlopa mean? -- Once you have a few people together, which is referred to as a group, that is called (20) sihlopa, that is a group.

When there are more than one or two you call it a group? -- Once you come across a number of people you cannot say in number as to how many people are there, then that is called a group which is sihlopa.

Now when you call it a cohesive group what do you mean then? -- By that I mean this group of people which I cannot say in number as to how many are they are doing something and they do not disagree or disapprove of what is being done, they all do it the way they want it done in the same fashion. (30) That is why I would say they are a cohesive group.

Yes/.....

Yes, Mr Bizos?

MR BIZOS: You recall that you told us that there was a group which you described about the size of a football team? -- Yes I do.

COURT: To put it correctly it would then be a number of people, about the number of people in a football team? That is what he means. We can debate later on what the meaning of this evidence is but you can know now exactly what I understand under the evidence.

MR BIZOS: As Your Lordship pleases. My Lord I was going (10) to ask some more questions in relation to it. You recall in what context you used the word "group", meaning up to the size of a football team? -- Yes I do.

In what context did you use it? -- As a result of a question which was put to me to give an estimation of the number of people who attacked the police vehicle I gave an estimation of the group which I referred to as the people who attacked the police vehicle to be about a number of people who can make up a soccer team, as an estimation.

Right. Now how much bigger or smaller was the group (20) that actually took part in the attack on Mr Mpondo's house? -- I did not pay a particular attention as to how big that group was, though it was also a group. Therefore I am not in a position to give a difference in size of the group between the group I just described and the group which was attacking.

Right, and in relation to the group that attacked Mr Mzunga's house, how much bigger or smaller was it than the group that attacked the police car? -- I did not pay a particular attention again there as to whether one could compare the groups, that is the group which attacked the police (30) vehicle and the group which was attacking Mzunga's house.

But/.....

But if there was a very material difference, that the one was the size of a football team and the other was a church full you would have noticed the difference? -- Yes I was going to say that there is a difference in number.

But you did not notice any such difference? -- No I did not observe that.

You told His Lordship that people from the observers joined the attacking group and you mentioned especially at the shop of Mr Mzunga? -- Yes that is what I said.

Was that in order to help themselves to the stock in (10) the stores? -- Yes because most of the people were taking or serving themselves with what was there.

But you yourself did not do anything like that? -- Yes because we had given instructions about ourselves that we do not take any part personally.

COURT: Why? When did you give those instructions to yourselves? -- At the square immediately when it became quite apparent to us that we are not going to control or have any control over the crowd Sehotso then said to us because of what is happening now and our aim was to get these people in the (20) march we are not going to take part in whatever they are doing. All we will do is just to look at what they are doing.

MR BIZOS: To whom do you say Sehotso said this? -- He said this to me and John Mokoena because we were the only committee members who were there, that is including himself Sehotso, because the other people who were elected were not there at the time.

Are you sure you are not confusing it with the statements made before the march was to take place, that it was to be a disciplined march? -- What I am saying is after the (30) attack on the police vehicle and the attack on Mpondo's house/....



house it is only then that Sehotso made this statement to us that we must just look at what is happening.

Yes but then you could not have been at the square?

-- At the square on my arrival there it was just shortly after they had been assaulted or hit by the police and it was not yet clear whether they were going to attack anybody or any house or the police themselves.

Well I am happy to inform Your Lordship that Mr Matlole, accused no. 17, has returned.

COURT: Where is he? (10)

MR BIZOS: Right at the back.

COURT: Let him enter the bench please.

MR BIZOS: In his correct order.

COURT: Yes. Yes welcome back Mr Matlole, I am glad to see you here.

MR BIZOS: Now I am not at all clear as to when you say Sehotso said this. Did he say it before the attack on Mpondo's house and before the attack on Mzunga's house or before, or whilst attempts were being made to get the march on the go, right at the beginning before any attacks? -- This instruction by Sehotso was given to us after he had realised that the group of youths had attacked the police vehicle and also the house of the councillor Mpondo and he then realised that they were now in such a motion that no one can control them, as a result of which then he decided to give us that instruction. (20)

Yes but then you could not have been at the square? -- Why I said that earlier it is because the attack on the police vehicle took place at the square and Councillor Mpondo's house is not really far from the square. I would say it is in the immediate vicinity of the square. That is why I said this (30) was said at the square.

I want to now turn to the document. Do you see the document headed "Agenda" before you? -- Yes.

COURT: Yes, this document you handed in?

MR BIZOS: Yes.

COURT: It is EXHIBIT AT 6 and it is headed 26 August 1984, Boiphatong Residents Anti-Rent Protest Meeting. It consists of four pages.

MR BIZOS: As Your Lordship pleases. Now do you recall this agenda for your meeting? -- Yes I do.

Do you recognise this as the Agenda? -- Yes I do. (10)

You see that the meeting was to be opened with prayers?  
-- Yes.

And that introductory remarks were to be made? -- Yes.

And that the first speaker was to speak about the rent increase issue? -- Yes.

And then there was to be a VCA representative? -- Yes.

COURT: Just a moment. There is a little arrow there which points from the number 4 to VCA representative. Must VCA representative come in behind the 4 or is VCA representative the first speaker? Could you explain that please? -- From (20) what I see there the VCA representative was going to be the speaker no. 4, on item 4.

MR BIZOS: Yes because the student representative has a cross next to him which means that he did not turn up? Did not materialise? -- Well that I do not know.

Yes, and there was going to be a woman representative?  
-- Yes.

And then General and then election of residents action committee? And there would be a closing? -- Yes.

Well do you recall page 2, how that came about? Well(30) let us first find out, who delivered the prayer? Do you recall?

-- I/....

-- I do not know about the opening of this meeting because on my arrival the meeting was already on.

Oh I see, and you do not know what the prayer was about?

-- No.

Do you know, do you recall what the resolutions were?

-- Yes I do.

Right. "We do not pay increase" and that seems to be crossed out, "rent". Can you recall what the resolution was?

-- Yes I do remember what the resolution was.

Yes, was it to pay, not to pay rent at all or not to (10) pay the increased rent? Sorry I have been corrected My Lord, not to pay the rent at all or not to pay the increased portion of the rent? -- The resolution about that is that we are not paying any rent prior to our having met to discuss with the people we were supposed to have met.

Yes, not to pay any rent until you have met the people on the 3rd? -- Yes.

Is that what the meeting wanted? -- Yes.

And then it says "To confront local town councils to resign pronto". Was that the feeling of the meeting? (20)

ASSESSOR (PROF JOUBERT): Mr Bizos may we just know, this has been amended as you see.

MR BIZOS: Yes.

ASSESSOR (PROF JOUBERT): Is it intended or not to read it as one sentence?

MR BIZOS: No 2 My Lord?

ASSESSOR (PROF JOUBERT): Yes 2, there is a full stop after councils and then there is an amended 3, and three has been crossed out and what was a new sentence may or may not be a part of the preceding line. I do not know. Can you ... (30)

MR BIZOS: I have no instructions on that My Lord. Can you possibly/.....

possibly explain it, whether there was to be a confrontation with the local town councils other than on the 3rd and asking them to resign? Were they separate or were they together? -- My understanding of the whole thing, the agreement, was that we are going to confront the councillors on the day of the march at Houtkop and then again if there is no agreement met between us and the councillors at the same time there the councillors would be asked to resign.

Yes. And then was the other agreement to stay at home on Monday? -- Yes. (10)

My Lord I am instructed that page 3 is the sort of thing that one writes when other speakers speak, to appear to be making notes or concentrating on the issue, or analysing the speech. Now could you please tell us on the fourth page whose handwriting that is? -- This is my handwriting.

COURT: The other pages are not in your handwriting? -- No.

MR BIZOS: I can with some confidence, although not with absolute certainty, is that the rest will be admitted to have been accused no. 11's handwriting. I will just check.

COURT: Do you want the original? (20)

MR BIZOS: I think the copy will do for him. Oh yes Sehotso is no. 1 and 2 and 3 are in accused no. 11's. Do you agree with that? Do you know? -- Well though I did not see them writing I can agree with that.

Yes. Now would you agree, without our going into a lot of detail, that this meeting of the 26th was not a conspiratorial meeting in any way to do anything wrong? -- Well I can say I agree with you on that.

Yes. And even at that stage, on the 26th, there was no talk of, at any rate at the meeting of your association (30) there was no talk of boycotting the council's business? --

It/.....

It was mentioned in that meeting, in this way that if there was no agreement about rent between the councillors and those who will be representing the community such can happen.

Yes. Well I am not putting to you what might have been mentioned but certainly no resolution to that effect was taken? -- The resolution there was to go and meet the councillors at Houtkop to go and discuss this thing.

COURT: This mention that was made of boycotting the businesses of the councillors was that made from the floor or by one of the speakers? -- This talk was written in a book which (10) Mokoena, accused no. 11, had with him. Who had written it in that book that I cannot tell because on my arrival at this meeting the meeting was already on.

Are you saying that he kept the minutes? -- I can agree with that because I really do not know whether he was noting down the minutes or what was happening.

Now you need not agree with me if you do not agree actually. I just want to determine what type of book it was he was writing in or where it had been written in. -- This is just a book he had with him. I do not know whose book is that (20) and how that book came to be there. This was contained in that book.

Yes now I want clarity. It was put to you that at this meeting there was no talk of boycotting of councillor's businesses. You say it was mentioned and thereafter you referred to a book. Do you say it was mentioned because you heard it mentioned or do you say it was mentioned because it appeared in a book? -- What happened is John Mokoena opened the book referred to by me and read from the book what was going to happen if there was no agreement between the (30) community and the people at Houtkop.

Yes/.....

Yes but did he read it to the meeting or did he just read it to you personally? -- He read it to everyone who was there.

And in that book mention was made of boycotting? -- Yes.  
MR BIZOS: The question that I asked you was whether any resolution was, whether any decision was made in relation to any boycott? -- No there was no resolution about boycott. The only resolution which was there was to go there to go and talk about the issues.

I am just waiting for an instruction about this book (10)  
My Lord. Is this book that you are referring to a note pad? Was it similar to the one that I am holding up? -- Yes similar to that one but smaller in size.

INTERPRETER: The witness had originally given a description of a note book size.

MR BIZOS: Yes. And I am going to put to you that there was such a note book in which the accused no. 11, Mr Mokoena, just made notes of the resolutions and what appears on page 3 of these papers, of AT 6. Is that the sort of thing that you are referring to? -- Yes it is a book which he had in front (20) of him which contained these, I did not check properly as to what were all the other contents of the book.

Yes. May I have a look at the original for one moment please My Lord? Thank you. Where did you get the paper to write page 4 from? -- He gave it to me to write on.

From this book? -- No I do not know where he got it from, all he gave to me was this page.

I see. And I am going to put to you that there was not anything about any boycott in this book that you are talking about. You say you did not have a proper chance to look (30) at it? -- He did have a book which he paged through. I am

not/.....

not talking about from where he got a page.

Yes. I am going to put to you that he did not also, he also did not speak about boycotts. -- About?

Boycotts. -- I say he did read about that from this book.

Now you remember that you told us that the only speakers were to be from members of the committee, the temporary committee? -- Yes.

Well the Agenda seems to suggest the contrary? Is it possible that you forgot about that? -- I am not quite clear on that. (10)

COURT: Not quite clear on the question or what? -- The question is not clear to me.

What counsel is putting to you is you said that the speakers would only be the committee members and now he says, if you look at point 4 "VCA representative, student representative" and 5 "Woman representative" and he says that appears to be people who are not members of the committee? -- That is true. These people are outsiders but the agreement when we were arranging for this particular meeting was we the people from the committee were going to be the speakers there and we (20) were going to allow whoever wanted to have something to say to this meeting time to do that. Pertaining to the Agenda referred to now here which I see in front of me I do not even know about this, how it was drawn, by whom under what circumstances.

MR BIZOS: At the meeting were you not at the table? At the meeting on the 16th? -- The meeting of the 16th?

I beg your pardon of the 26th?

COURT: 26 August 1984. -- As I said in my evidence I took a seat in the front, not at the table. After Mr Sehotos had (30) left from the table that John invited me to come and take a seat/.....

seat at this table.

MR BIZOS: Well I am going to put to you that the speakers were in fact agreed upon and it was agreed that there would be outside speakers invited. You say you do not know about that? -- I say no I do not know, though I did find them there.

I am going to put to you that you were there from the beginning of the meeting and that you sat at the table from the beginning of the meeting. -- I dispute that.

And that it was only you and accused no. 11 who were at the table? -- I dispute that. (10)

And that Mr Sehotso was sitting in front but in what I refer to as the cross pews, that is the ones that the choir or the, Your Lordship knows ...

COURT: Yes I know what the cross pews are. Does the witness?

MR BIZOS: The pews on the side as you are looking forward. -- I quite agree, that is the place on which I took a seat.

Oh well I am going to put to you that Sehotso was on the one side of the cross pews and Edith Lethlake was on the other side of the cross pews and that you and no. 11 were at the table in the middle. -- I dispute that. I agree that (20) I did take a seat at the table but it was later.

One detail in relation to the reference to Mr Mpondo at the meeting and the school uniforms. I want to remind you what the complaint about that was. Mr Mpondo was the chairman of the school committee of the Dr Hlapo School? -- Yes.

And that the complaint about him was not about uniforms but about something else? That he did not have regard to the problems and complaints of the parent body? You recall that? -- Yes I do

That he was dictatorial and that he dismissed peoples (30) complaints without a proper hearing? You recall that? -- Yes

I/.....



I do.

The question of the uniforms was in relation to another school that did not affect Mr Mpondo? It related to the Lebogal School, L-e-b-o-g-a-l. And let me remind you, so that His Lordship can get some idea of the things that concern the people there, somebody had decided after the parents had bought the uniforms that the uniforms should change so that the shirts had black trimming? Do you recall that? -- I do recall that being mentioned though I cannot remember by whom.

Yes. And this was the sort of thing that was raised (10) at the residents meeting? -- Yes, on the 26th.

COURT: While counsel is thinking about the next question could you turn to page 4 of that document in front of you. You have there in the middle the line "Additional members of S.C." What does S.C. stand for? -- All I remember on this was that John Mokoena said I must write it that way in which it is written there. Otherwise I do not know what does that mean.

Thank you.

MR BIZOS: Would you agree that the person that you referred to as Esau spoke right at the end of the meeting, after (20) the resolutions had been taken? -- No he addressed the meeting while the meeting was still on. Not after any resolutions.

Do you remember the woman who you referred to as Edith, was she not the person who called for the stay away on the 3rd when she spoke? -- The first person to have made mention of that was Esau and then the speakers who then took the floor after him also made mention of that, namely the woman Edith and the other person who is only known to me as Papi.

COURT: Papi, P-a-p-i? -- Yes. Also made mention of it.

MR BIZOS: My Lord I have an instruction in relation to (30) the cryptic S.C., it is steering committee.

COURT:/....

COURT: It does not refer to senior counsel?

MR BIZOS: Steering committee My Lord.

COURT: Did you ever hear the term steering committee? -- No I did not.

MR BIZOS: My note from accused no. 11 is that he cannot recollect actually mentioning it but he probably did he says, he used the abbreviation. Do you recall that the woman whose name you remember as Edith spoke about or called upon the women present to join the Vaal Organisation of Women? -- Yes I do.

Now in relation to the status of your organisation, (10) just try and listen carefully and try and tell His Lordship whether you recall it the way I am going to put it. Did he explain that this was a temporary committee?

COURT: No. 11?

MR BIZOS: No. 11. -- Yes.

And that the people that had been called there had three options. Confirm that the temporary committee should become a permanent committee.

COURT: Are you putting it that this was not explained when they came together for the first time but this is what (20) happened at the meeting?

MR BIZOS: At the meeting of 26 August 1984.

COURT: Did you understand the question in that light, that at the meeting of the 26th August, accused no. 11 explained that this was a temporary committee? -- Yes.

MR BIZOS: Or the second option was that the people there present ....

COURT: What is the first option?

MR BIZOS: And that the committee could be confirmed as a permanent committee. -- Yes that is what he said. (30)

Or if they wanted to they could elect a new committee altogether/....

altogether. -- Yes.

Or thirdly they could keep this committee but they could add to it representatives that were at the meeting or that the meeting wanted to add? -- Yes that is true.

And did the meeting decide that they would add another three people to the committee, is that correct? Let us take it bit by bit? -- Yes that is so.

And those are the names that are here on page 4 of EXHIBIT AT 6? -- Yes.

But that the nature of the organisation would not be (10) decided at that meeting? Do you recall that? -- Yes I do.

And is that what happened? Well let me try and explain the reasoning for it. Do you recall that it was explained that the immediate issue that required to be redressed was this R5,90 increase that was going to come into effect on 1 September? -- Yes.

And that this was not the time for the people of Boiphatong to have debates whether they should have their own civic, as it was called, or whether they would become an area committee of the Vaal Civic Association or whether they would have any- (20) thing to do with the UDF or anyone else? Am I putting the position correctly as far as you remember it? -- I agree with you as put to me by you but there are certain things that are left out. There were people who were elected to take part as members of the existing committee which they decided must remain and those people refused to be elected as members in this committee. In other words they declined to take part in anything whatsoever. Then others were elected. Of those only two agreed to be elected into this committee. That is to make up for the number in the committee which was lacking. (30)

Subject to that additional comment do you agree with what

I/.....

I have put to you? -- Yes I do.

COURT: Just to get clarity on the list, page 4 of EXHIBIT AT 6, I see three additional members. Are you saying that they did not all accept the position and that only two remained or what does that mean that you said? -- The position is the three names there as shown on EXHIBIT AT 6, page 4, are the people who were nominated by the people when they were supposed to be elected into this committee. The two first names, those people declined to take any part in the committee. Which means now we are left with only one person, the one whose name (10) appears right at the bottom.

That is Mr Piet Mbongo. So Mr Mbele and Mr Mqenya declined to accept? -- Yes. So as a result of which then another person was elected who was prepared to take part in this committee which then made the additional number to be two people, that is that person whose name does not appear here and Piet Mbongo.

Yes, so in fact this is not the final list? -- That is true.

MR BIZOS: Well I am going to put to you that they in fact (20) accepted at the meeting but did not participate afterwards. Now would you agree that subject to that correction that you have made for the rest I have put the nature of your organisation correctly? -- Yes I agree with that.

Yes. And that you were really concerned with the problems of your community as shown by the resolutions? -- Yes.

You were not concerned with the notion of overthrowing the State by violence? -- No.

Or to make the country ungovernable? -- No.

Now as far as this business of saying "Amandla, Awetu" (30) did you give, did you also say "Amandla" and "Awetu"?

COURT: /.....

COURT: At this meeting?

MR BIZOS: At this meeting of 26 August.-- Yes we were all taking part in that.

Did you consider that you were making yourself a member, or an active supporter of the African National Congress by saying "Amandla"? -- No not that. My understanding of that is when a person says "Amandla Awetu" in a gathering that is conveying a message to say that we all agree on what has been decided upon.

All the eyes say Amandla so to speak? -- Well that is(10) tantamount to the same meaning although frequently people would say Amandla Awetu.

Yes, and that is what it means to you?

COURT: Do you use this expression of agreement when you are at a parents school committee meeting? -- No they differ. It depends on the nature of that committee. Not all of them accept or agree on the terms of Amandla and Awetu.

And would you use it in church meetings which are not political in nature? -- No it is not applicable there.

Now when is it used then? -- It is only being used in (20) matters similar to these like for instance the question of rent. This is where I found it being used frequently because it is the first time that I was attending such kind of meetings.

You had not used it elsewhere? -- No not to the other meetings I attended prior to this, for instance at church and other places where I attended meetings, it was not used.

MR BIZOS: And you told us that other songs were sung, you did not know the words but you picked up the tunes?

COURT: The tune or the beat?

MR BIZOS: Or the beat yes. -- It is like a person in church(30) where a hymn is sung and you do not know the wording but you

follow/.....

follow the tune. All you do is you listen to the noise which is being made by those who know the tune and the wording and then just open your mouth as if you are also singing.

COURT: So what you do is you make noise in tune? -- You just make a movement of your mouth as if you are singing with the crowd. Those who are not aware that you are not singing will take it for granted that you are also singing.

MR BIZOS: Yes, but eventually you sang Nkosi Sikelele e Africa? -- Yes that one I know, we used to sing it even at school. (10)

Yes, and that is a hymn of peace? -- Yes it is being sung mostly, in fact especially at schools when a function is being closed which was held at a school. Then they would sing it.

And the meeting of 26 August finished off on that peaceful note and people went off to their business? -- That is so.

Thank you My Lord.

COURT ADJOURNS UNTIL 14h00.

HOF HERVAT OM 14h00.

PETER MOHAPI, nog onder eed

HERONDERVRAGING DEUR MNR. FICK : U het aangedui in kruisonder-  
vraging dat op die dag van die 3de het u probeer, na die  
polisie daar was en weggeroep het met die voertuig na die klip-  
gooiery, om die mars weer aan die gang te kry, die optog. Hoe  
het u dit aan die gang probeer kry? -- Wat ons gedoen het was  
om die plakkaat hoog te hou dat die mense die plakkaat kan  
sien, sodat hulle kan beseef dat ons hulle eenkant wou gehad  
het, maar ons het nie daarin geslaag om hulle aandag daarop (10)  
te vestig nie.

Daarna was daar 'n aanval by raadslid Mpondo se huis, by  
Nzunga se huis en by die winkel en by 'n biersaal. By Mpondo  
se huis, hoe lank het die aanval daar geduur? Kan u aandui?  
-- Ek is nie in staat om vir die Hof te sê hoe lank presies  
dit geduur het nie. Wat ek wel kan sê is, dit was lank, maar  
nie langer as 'n uur nie.

En by raadslid Nzunga se huis, hoe lank het dit geduur?  
-- By Nzunga se huis het hulle langer geneem, want hulle was  
nie in staat gewees om onmiddellik petrol te bekom nie. (20)  
Daar was eers 'n gesukkel gewees om hierdie plek aan te val  
tot op 'n later stadium wat die petrol bekom was en toe was die  
aanval uitgevoer.

U sê dit het langer geduur. Kan u enige aanduiding gee,  
was dit twee keer so lank of baie, baie langer as die aanval  
daar by raadslid Mpondo se huis? -- Daar het dit 'n bietjie  
meer tyd geneem. As ek reg onthou, na skatting sal ek sê dit  
was meer as 'n uur.

En dan die aanval daar by die winkel by raadslid Nzunga?  
-- Dit het ook 'n bietjie langer geneem daar, want hulle (30)  
het gesukkel om in te breek en intussen het die polisie ook

... / daar

daar opgedaag wat hulle verhinder het. Hulle het dus nie alles op een tydstip gedoen nie.

Laat ons dit net duidelik kry. Het hulle gepoog om daar in te breek toe die polisie opgedaag het en weer teruggekom of wat bedoel u by die polisie het hulle verhinder? -- Wat ek daarby bedoel is, terwyl hulle nog gesukkel het om in te breek het die polisie op die toneel opgedaag, as gevolg waarvan die mense toe gevlug het en gaan wegkruip het. Toe dit duidelik vir die polisie was dat daar niemand meer in die omgewing was nie, is die polisie toe weg na ander gedeeltes toe. Terwyl(10) die polisie weg was, het die mense weer teruggekeer na hierdie betrokke winkel toe.

HOF : Julle ook? -- Ja, ons het ook teruggekeer.

MNR. FICK : Kan u aan die Hof 'n aanduiding gee waar het hierdie mense heen gehardloop? Waar het hulle gaan wegkruip wat daar by die winkel was en weggehardloop het? -- Daar is huise daar in die nabyheid van hierdie winkelsentrum en daar is ook 'n skool daar geleë. Op die perseel van die skool is daar bome. Mense het skuiling ingeneem tussen die bome op die verskillende persele in die nabyheid, sowel as die latrine in hierdie (20) omgewing was gebruik as skuiling vir die mense.

En u, waar het u gaan wegkruip? -- Daar is 'n huis op die hoek net voor hierdie winkel waar ek ingegaan het om myself te gaan wegsteek daar.

Die ander persone van die komitee wat u van praat, was hulle op daardie stadium saam of nie? -- Ek kan nie sê waar hulle hulleself gaan versteek het nie, want in die vlug het ons uitmekaar gegaan en maar weer teruggekom bymekaar van die plek af waar ons onself gaan versteek het.

Kan u enige aanduiding gee hoe lank die aanval by die (30) biersaal was? -- Ek weet nie hoe die mense te werk gegaan het

... / by



by die biersaal nie, want al wat ek vir die Hof kan sê is, van die winkel af kon 'n mens gesien het waar die biersaal geleë is. Al wat ons kon sien was die rook dat daardie plek aan die brand was. Hoe dit bewerk was, kan ek nie sê nie.

U het dan ook aangedui dat die polisie het op 'n stadium traanrook en rubberkoeëls gebruik die dag van die 3de. Waar was dit gewees? -- As gevolg van die aanval op die polisievoertuig vroeër daar by die "square", na ons by raadslid Mpondo se huis was, het mense verskillende rigtings geloop daar. In die loop het ons polisie op 'n stadium raakgeloop.(10) Dit is waar ons in aanraking gekom het met hierdie traangas en rubberkoeëls. Die polisievoertuie was op hierdie stadium 'n bietjie meer gewees. Selfs die groottes was alreeds in daardie omgewing.

Was dit voordat u by raadslid Nzunga se huis was of na die tyd? -- Dit is voor ons by raadslid Nzunga se huis was. Met ons aankoms daar, was die traangas en die rubberkoeëls alreeds gebruik.

Toe hierdie traangas en rubberkoeëls gebruik was, was daar gepraat met die massas of met enigeen van u deur die (20) polisie voor dit gebruik was of is dit net gebruik? -- Ek volg nie die vraag nie. Wat is die vraag?

HOF : Is julle beveel om uiteen te gaan deur middel van 'n luidspreker of is daar sommer onder julle ingesak? -- Daar was geen bevel gewees nie. Dit was net 'n bakleiery gewees volgens die mense se optrede.

MNR. FICK : U het dan ook getuig dat tydens die mense se klipgooiery was daar geululeer en geskreeu en geraas gemaak deur die mense om die klipgooiers aan te moedig?

HOF : Het die getuie getuig dat daar geululeer is? Dit is(30) my woord. Ek het nie gehoor dat hy dit herhaal nie.

... / MNR. FICK

MNR. FICK : Ek dink hy het bevestigend geantwoord, maar ek sal hom vra.

HOF : Hy het gesê hulle het gesing.

MNR. FICK : Was daar deur die toeskouers geululeer terwyl die klipgooiery aan die gang was? -- Waar? By die aanval op die polisievoertuig of by die aanval op 'n huis?

By enige van hierdie aanvalle op die twee raadslede se huise of by die winkel? -- Die geraas wat gemaak was was by raadslid Mpondo en raadslid Nzunga.

HOF : Wat se soort geraas? -- Die geskreeu van Amandla Nga-(10) wethu en die gesingery van liedere Siyaya Epitoli.

MNR. FICK : Net duidelikheidshalwe, was daar geululeer ook as deel van die geraas? -- Daar was geen ander geraas behalwe die van die liede wat gesing was nie.

Dan wil ek u verwys na BEWYSSTUK AT(6), die eerste bladsy waarop staan 26 Augustus 1984 Boipatong Residents Anti-Payers payers meeting. Het u op enige gesien toe hierdie bladsy geskryf was? -- Nee, ek het nie gesien nie.

En dan bladsy 2. Daar bo staan Jeremiah Five. Het u gesien toe die bladsy geskryf is? -- Nee, ek het nie gesien (20) nie.

Die laaste punt op die betrokke bladsy nr. 3, daar is genotuleer dat die "resolution" was "to stay at home on Monday."

HOF : Net voordat u verder gaan met bladsy 3. Op bladsy 2 wat is die woorde wat daar heel bo staan? Daar staan "Tsa Jeremiah Five, one to seven." Wat is daar voor? -- Die woord wat ek uitmaak, dit is blykbaar in 'n Swarttaal is "Losa."

Nee, daar staan baie meer as dit. -- Ek is nie op hoogte met die inhoud van daardie dokument nie. Dus is ek nie in staat om vir die Hof te sê wat daar staan nie. (30)

Kyk 'n bietjie na my oorspronklike. Dit verskil van die

... / fotokopieë

fotokopieë. -- Dit lees "Dilo Tsa Jeremiah." Ek weet nie wat beteken dit nie.

MNR. FICK : Dan wil ek vir u vra op dieselfde bladsy die laaste paragraaf daar, daar is 'n resoluëie aangeneem "to stay at home on Monday". Dit is bladsy 2 punt nr. 3. -- Na aanleiding van Esau se toespraak, wie die eerste persoon is wat melding gemaak het daarvan, dit wil sê die "stay-away", was dit toe as 'n resoluëie gevat en aanvaar dat dit korrek is, 'n "stay-away" behoort uitgevoer te word.

Volgens hierdie dokument is daar net drie resoluëies. (10) Ek merk hier is niks van 'n mars nie. Is dit genotuleer, volgens u, wat op die vergadering besluit was? -- Volgens wat dit daar geskryf staan, sal ek sê dit is die resoluëies wat geneem was daar in die vergadering.

Was daar enige resoluëie geneem in verband met 'n mars? op 3 September 1984? -- Ja. In hierdie vergadering was daar 'n resoluëie geneem oor die "march", dat mense nie werk toe sal gaan nie en die mense sal moet bymekaar kom by die plek om te marsjeer na Houtkop.

GEEN VERDERE VRAE. (20)

MR BIZOS : My Lord, I have not seen the original, nor has the accused, but my provisional instruction is that it stands for "lamentations" and what else is there than possibly the initials of the person who delivered the prayer, Veronica Mbombo.

COURT : It may be sort of short-hand for lamentations.

MNR. JACOBS : Die volgende getuie se naam is Jacob Luma Mahlatsi. Die getuie sal getuënis gee oor daë nrs. 71(1) en (2), daad 76, daad 77(1) tot (10). Daad 71 oor die dele van die klagstaat 307 tot 311, die bladsye. Die tweede (30) daad is van 346 tot 352 en daad 77 van 353 tot 356. Sy getuënis

... / sal

sal op die laaste daad net strek tot voor Caeser se huis aan-  
geval is.

HOF : Handel hierdie dele van die akte met die aanval op  
Caeser se huis?

MNR. JACOBS : Die laaste deel.

HOF : En die eerste gedeeltes? -

MNR. JACOBS : Die eerste gedeeltes is die organisasie vir die  
stigting van die gebiedskomitee vir gebied 3. Dan die ver-  
gadering en die organisasie van die vergadering van die 26ste  
Augustus in die klein hoewes en die laaste deel is die (10)  
vergadering, die bymekaar kom op die 3de en dan daarvanaf tot  
net direk voor hulle by Caeser se huis kom.

JACOB MAHLATSI, v.o.e. (Deur tolk)

MNR. JACOBS : Dan vra ek die Hof net ook om hierdie getuie -  
het ook deelgeneem aan die aktiwiteite, hy het aan die opmars  
deelgeneem en omdat die beskuldiges hier aangekla is, kon  
hy ook aangekla gewees het. Ek vra dat die Hof hom sal waarsku  
in terme van artikel 204.

HOF : Mnr. Mahlatsi, die beskuldiges staan aangekla op aan-  
klagte van hoogverraad, terrorisme, subversie, moord en (20)  
ook die bevordering van die doeleindes van 'n onwettige organi-  
sasie. Die Staat beweer dat u moontlik in u getuienis u kan  
impliseer ten aansien van sekere van hierdie dade en dat u 'n  
medepligtige mag wees in sekere opsigte. U word gewaarsku  
onder artikel 204 van die Strafproseswet dat u verplig is om  
die vrae te beantwoord wat aan u gestel word, al sou die ant-  
woorde u inkrimineer en u word meegedeel dat indien u die  
vrae eerlik en bevredigend beantwoord, ek u sal kwytskeld van  
vervolgning op enige van die aanklagte.

ONDERVRAGING DEUR MNR. JACOBS : Mnr. Mahlatsi, u is 'n (30)  
leraar in die Bethal Apostoliese Kerk Gebied 3, Sebokeng? --

... / Dit

Dit is so.

Op 16 Augustus 1984 het u die aand besoek ontvang by u huis? -- Ja, van 'n persoon.

Wie is dit? -- Vilakazi.

Wat is sy naam? -- Vumi.

Is dit beskuldigde nr. 10 hier by die hof?

HCF : Laat hom opstaan, asseblief. Is dit die beskuldigde?

-- Ja.

Beskuldigde nr. 10.

MNR. JACOBS : Wat wou hy van u gehad het? -- Hy het daar (10) by my huis gekom om my te laat weet van 'n vergadering wat by sy huis gehou sal word.

Wanneer sou die vergadering wees? -- Hy het gesê dieselfde dag.

En waar is sy huis? Weet jy? -- Dit is in Zone 3.

Hoe het hy gesê wat se vergadering sal dit wees? -- Nee, hy het nie gesê wat se vergadering dit was nie.

En toe, wat gebeur toe? -- Nadat ek vir hom gesê het dat ek die vergadering gaan bywoon of sal kom na die vergadering, is hy toe weg. (20)

Het jy toe gegaan na sy huis toe dieselfde aand? -- Ja, ek het.

Toe jy by sy huis aankom, was daar ander mense ook gewees? -- Ja, daar was ander mense.

Hoeveel mense het die vergadering bygewoon? -- As ek nog reg onthou was dit twintig mense gewees.

Het u van die mense geken of leer ken? -- Ja, daar was mense gewees wat aan my bekend was.

Afgesien van beskuldigde nr. 10, wie het u nog geken? -- Olifant, Nkopane. (30)

Is dit beskuldigde nr. 8 hier by die hof? -- Ja.

... / Ja

Ja? -- Marupeng.

Sien jy nog onder die beskuldigdes enige ander mense wat jy geken het? -- Nee, daar is nie.

Het die vergadering toe daar in aanvang geneem? Was julle tot orde geroep en het dit toe begin? -- Ja.

Wie was die voorsitter? Wie het opgetree as voorsitter op hierdie vergadering? -- Vilakazi.

Dit is beskuldigde nr. 10? -- Ja.

Het hy verduidelik aan die gehoor wat daar was om te sê wat is die doel van hierdie vergadering? -- Ja. Hy het (10) gesê die vergadering wat daar gehou word, is aangaande die verhoging van huurgelde.

Wat omtrent die huurgelde se verhoging? Wat was die doel van die vergadering in verband daarmee? -- Hy het gesê hierdie vergadering word gehou met die oog daarop om die gemeenskap te help, want die Civic Association - Vaal Civic Association het hulp aan die gemeenskap.

HOF : Het hulp aan die gemeenskap? -- Ja, aan die gemeenskap wat nie tevrede is oor die huurgelde nie.

MNR. JACOBS : Met ander woorde, hulle bied hulp aan aan (20) die gemeenskap? -- Ja.

HOF : Was dit dan 'n vergadering van die Vaal Civic Association of 'n tak van hom? -- As gevolg van die manier waarop hy dit aan ons verduidelik het, sal ek sê dit was die Vaal Civic Association se vergadering, want hy het melding gemaak van hierdie Vaal Civic Association.

MNR. JACOBS : Het hy gesê wat daar beoog word, hoekom julle bymekaar kom daar? Is daar enige doel of iets wat julle moet bereik op hierdie vergadering? -- Hy het nie gesê wat ons moet bereik nie. (30)

Wat het hy verder gesê? -- Wat hy toe verder gesê het is

... / dat

dat mense met gevoelens hieroor moet dit noem.

Hieroor? Wat is hieroor? -- Aangaande hulle ontevredenheid oor die huurgelde.

Moet dit daar aan die vergadering bekend maak? -- Ja.

En toe? -- Na hy dit gesê het, het hy gaan sit. Nkopane het toe opgestaan.

Dit is beskuldigde nr. 8. Ja? -- Toe hy daar opstaan het hy gesê ons het hierdie raadslede gekies, maar hulle doen nie hulle werk op die regte manier nie.

Wat is die regte manier? Hoe sê hy het hulle dit op (10) die verkeerde manier gedoen? -- Hy het gesê omdat hulle net bly huurgelde verhoog.'

Gaan voort, wat sê hy nog? -- Na dit het hy gaan sit.

Het hy niks verder uitgebrei wat moet hulle doen, hoe moet hulle die ding benader nie? Wat is sy ontevredenheid dan? -- Nee, dit het ek nie gehoor wat hy gesê het nie.

Hy gaan sit toe? -- 'n Onbekende manspersoon het gestaan. Die persoon het gesê hy bedank ons as ons daar vergader, want hy self was by 'n vergadering gewees van die raadslede waar hulle mense genooi het om die vergadering by te woon aan- (20) gaande die verhoging van die huurgelde. Hy sê toe met sy aankoms was die spreker ene Sani Mofokeng. Hy sê toe verder toe hy daar kom, het Sani 'n vuurwapen in sy hand gehad. (Getuie demonstreer hoe Sanie die vuurwapen gehad het)

HOF : Asof dit na vore gerig word, met die regterhand horison- taal gehou. -- Die persoon sê toe op 'n stadium het hy opgestaan om te praat oor dit wat daar bespreek was. Sani het toe aan hom gesê, dit wil sê aan hierdie persoon, hy moet sit, want andersins hy, wat Sani is, sal hierdie man agtervolg. Die man sê toe as gevolg daarvan het hy besluit om weg te gaan, (30) want hy het toe besef dat daar moeilikheid gaan ontstaan

... / tussen

tussen hom en Sani.

Dit is een persoon wat sy grief dan gelug het teen die raadslede. Is daar van die ander twintig mense wat toe hulle griewe gelug het? -- Ek kan nie meer onthou of daar nog een was nie.

Het hierdie vergadering tot 'n einde gekom? -- Ja.

En is daar gereël vir 'n volgende vergadering? -- Ja.

Hoe is daar gereël? Kan jy net vir ons sê? -- Ja, Vilakazi het toe gesê ons sal weer bymekaar kom op die 21ste.

Van watter maand? -- Augustus. (10)

1984? -- Ja.

Wat se dag sou dit wees? -- As ek reg onthou was dit 'n Donderdag of 'n Woensdag.

HOF : Vilakazi is?

MNR. JACOBS : Is dit beskuldigde nr. 10 wat dit gesê het? -- Ja.

Het hy gesê as julle daar bymekaar kom, of julle sou saamkom met ander gebiedskomitees of ander mense of wat het hy gesê? -- Ja, hy het gepraat van die komitee van Zone 7.

Sal julle dan 'n gesamentlike vergadering hou? -- Ja, (20)  
by sy huis.

HOF : By wie se huis? -- By Vilakazi se huis.

Was julle in Zone 7 self? -- Nee, Zone 3.

Daar word byeengekom met 'n gebiedskomitee van Gebied 7. Was julle 'n gebiedskomitee of was julle 'n los groep mense? -- Nee, op daardie stadium was ons net los mense gewees.

MNR. JACOBS : Die reëlings was dan dat die los groep van Gebied 3 sou dan saam vergadering hou met die gebiedskomitee van Gebied 7? -- Ja.

Het jy toe hierdie vergadering die volgende week, jy (30) sê 21 Augustus 1984 toe bygewoon? -- Ja, ek was daar.

... / Het



Het jy gegaan na Vilakazi se huis? Dit is beskuldigde nr. 10 se huis? -- Ja.

Toe u daar aangekom het, het u mense daar gekry van Gebied 3 wat toe reeds daar was? -- Ja, 'n paar mense was al daar gewees.

Wie was hulle? -- Olifant, Nkopane.

Beskuldigde nr. 8. -- Marupeng, mev. Olifant en my eie vrou was ook by.

En beskuldigde nr. 10, was hy daar? -- Ja, hy was ook daar gewees. (10)

Het daar toe mense van Gebied 7 opgedaag? -- Ja. Net na Vilakazi 'n toespraak gemaak het, het hulle opgedaag.

Het beskuldigde nr. 10 'n toespraak gemaak voordat daardie mense opgedaag het? -- Ja.

Wat het hy gesê in die toespraak? -- In sy toespraak het hy gesê ons is hier bymekaar nog 'n keer oor hierdie huurgeld. Daarna het Esau Raditsela ingekom en Edith.

Edith wie? -- Ek weet nie wat is haar van nie.

Ja? -- En Dorcas, Sam Matlole.

Dit is beskuldigde nr. 17. (20)

HOF : Is Dorcas die vrou van Esau Raditsela? -- Ja.

MNR. JACOBS : En dan sê u beskuldigde 17? -- Ja, hy was ook daar gewees.

Was dit net die vier van hulle wat gekom het van Gebied 7 af? -- Ja, want Vilakazi het hulle aan ons voorgestel.

Hoe het hy hulle voorgestel aan julle? -- Hy het gesê die persone hier is Esau Raditsela en sy vrou van die komitee van Zone 7. In hulle geselskap is Sam Matlole en Edith.

Ook van Gebied 7? -- Ja.

Nadat hy hulle voorgestel het? -- Hy het toe 'n geleentheid gebied aan Raditsela om 'n toespraak te maak. Toe hy daar

h toespraak gemaak het, het hy gesê hy is dankbaar as mense van Gebied 3 bymekaar gekom het en toe verder gesê ons moenie skrik asof ons gearresteer gaan word nie, want die Vaal Civic Association werk net soos die Trade Unions. Hy het toe verder gesê op die 26ste by die Roomse Kerk te Small Farms is waar ons hierdie dinge breedvoerig gaan bespreek.

By watter geleentheid? Het hy gesê? -- Hy het van die datum die 26ste gepraat.

Wat sou daar op die 26ste plaasvind het hy gesê? -- Hy het gesê dit is die datum, die 26ste, wat ons bymekaar gaan(10) kom om hierdie kwessie van die huurgelde te bespreek.

26 Augustus 1984? -- Ja, dit is so.

Hoe het hy gesê wie gaan bymekaar kom? Gaan dit 'n vergadering wees of gaan dit net 'n bymekaar kom wees van julle paar? -- Hy het gesê 'n groep mense sal daar wees.

Sal dit 'n massavergadering wees? -- Ja.

Wat sê hy nog? -- Daarna het hy gaan sit.

Laat ons net teruggaan na twee aspekte toe. Hy het nou gesê die mense moenie bang wees nie. Waarvoor moet hulle nie bang wees nie? -- Hulle moet nie bang wees nie, die polisie(20) sal hulle nie arresteer nie.

In watter opsig het hy dit gebruik? Hoekom sal die polisie hulle nie arresteer nie? Vir wat nie? -- Omrede die Vaal Civic Association net so werk soos die Trade Unions.

In watter opsig? Laat ons hoor? -- In die opsig dat die Trade Unions mense help van die fabriekse baie.

Sou daar advertensies gehou word oor die massavergadering? -- Ja, hulle het gesê daar gaan advertensies gemaak word.

In watter vorm? -- Pamflette sou gemaak gewees het wat in die strate versprei sal word deur dit aan mense te gee. (30)

Wie sou betaal het vir daardie pamflette en wie sou dit

... / gemaak

gemaak het? -- Esau sou dit gemaak het. Dit is al wat hy gesê het. Hy sou die pamflette gemaak het.

Dit is pamflette wat gemaak word. Is daar gepraat oor plakkate of soos anders bekend "posters"? -- Nee, daarvan het hy nie gepraat nie.

Sou daar op 'n ander wyse advertensies plaasgevind het? -- Ja, 'n "speaker".

Is dit nou 'n luidspreker? -- Ja.

HOF : Is dit nou een wat op 'n motor gemonteer word of met 'n motor deur die strate ry of hoe sou dit geskied het? -- Ja, (10) dit is so.

MNR. JACOBS : En wie sou die advertensie doen by wyse van 'n luidspreker? Hoe sou dit gedoen word en wie sou praat? -- Dit was nie verduidelik wie dit sou doen nie.

Op hierdie vergadering terwyl julle nou hierdie dinge bespreek het, het ene Mankila iets gesê daar of Makila? -- Ek kan nie die naam van die persoon onthou nie, maar iemand het gepraat.

Wat het hy gesê, die persoon wat gepraat het? -- Die persoon het gesê hy was by 'n groot vergadering gewees te (20) Mpathlalasane saal.

Waar is die saal geleë? -- Zone 14.

Wie het die vergadering gehou daar? -- Dit was die raadslede se vergadering.

Het hy gerapporteer wat daar op die vergadering gesê is en wat die doel van daardie vergadering was? -- Ja, hy het gesê by hierdie vergadering van die raadslede ene Matjila het daar in sy toespraak aan hierdie vergadering gesê daar is van die raadslede wat nie tevrede is met hierdie verhoging van huurgelde nie. Hy maak dus 'n voorstel dat daar 'n papier (30) uitgestuur moet word wat deur die gemeenskap geteken moet word.

... / Is

Is dit 'n petisie? -- Ja, dit is so.

Vir watter doel moet dit geteken word? -- Dit moet geteken word as bewys dat die gemeenskap gee nie goedkeuring aan die verhoging van die huurgelde nie.

En as hulle nou so 'n petisie kry met name op, wat het hulle dan gesê, wat sal die raad doen? -- Hy het toe verder gesê dat na ons geteken het, Matjila wil die papier van hom af terug hê. Dit wil sê dit moet teruggegee word aan hom. Hy sou daardie papier geneem het om dit te gaan voorlê by die hoof van die raadslede. Dit is 'n Blankepersoon, wat in (10) beheer is van al die raadslede.

Die burgemeester. As die petisie nou daar by hulle kom het die raadslede gesê is hulle dan bereid om iets te doen oor die huur? -- Volgens hierdie persoon se verduideliking aan ons in hierdie vergadering, was Matjila teen die idee van die verhoging van die huurgelde.

Wat is Matjila se amp? Is hy 'n raadslid? -- Ja, hy is 'n raadslid.

Het Matjila gesê as hulle die petisie vir hom bring wat sal die raad doen omtrent die verhoogde huur? -- Nee, dit (20) het hy nie gesê nie.

GETUIE STAAN AF.

HOF VERDAAG TOT 6 MAART 1986.