

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(TRANSVAALSE PROVINSIALE AFDELING)

Ass. 2

SAAKNOMMER: CC 482/85

DELMAS

1987-01-27

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

KONTRAKTEURS:

LUBBE OPNAMES

VOLUME 162

(Bladsye 7981 - 8093)

COURT RESUMES ON 27 JANUARY 1987.

BAVUMILE HERBERT VILAKAZI: d.s.s.

FURTHER CROSS-EXAMINATION BY MR JACOBS: Mr Vilakazi we were busy yesterday on what you understand under autonomous, you remember? -- That is so.

The Court asked you yesterday is it possible that you had a total misconception about Town Councils and budgeting authority. What do you say to that? -- Misconception on what? I am not clear?

On the Town Council's budgeting authority. -- Well as (10)
I am giving evidence I am sure that I am giving evidence in as far as my knowledge.

So what is the budgeting authority of the Town Council, do you know? -- Well the budget as far as I know is handled by the Development Board.

I beg your pardon, I cannot hear? -- The Development Board is responsible for the budgeting of the Town Councils.

Who made the decisions on the allocation of money and on the raising of services charges and so on? -- Well the final decision is taken by the Minister. (20)

So then they have got authority, is that correct? -- The Minister has got authority.

I beg your pardon? -- The Minister has got authority.

I am not speaking about the Minister Mr Vilakazi I am speaking about the Town Council. Do not evade my question please.

MR BIZOS: With the greatest respect it is an uncalled for comment My Lord. The question was put had they authority, no the Minister had authority. It is not an evasion, to say the question is being evaded when he repeats that the Minister (30)

has/....

has authority.

MR JACOBS: Well My Lord I asked him specially about ...

COURT: Well let us not debate this point. Repeat the question.

MR JACOBS: Is it correct if you say that they made the decisions on the allocation of money and

MR BIZOS: He did not say that My Lord. It is being put to the witness that he said something that he did not say.

MR JACOBS: But I am trying to explain the question now to him. Do you still say that the Town Council has no authority after you said that they had the authority to raise service (10) charges and make decisions on allocation of money?

MR BIZOS: He did not say that My Lord.

COURT: Mr Bizos let us just have the question first, and do not interrupt the cross-examination unduly.

MR BIZOS: My Lord with the greatest respect if the question...

COURT: I have ruled that Mr Bizos, please sit down. Next?

MR JACOBS: Do you agree that the Town Council has the authority to raise service charges? -- With the approval of the Minister, yes.

Do you agree that they have the right to allocate money(20) for different services? -- Unless it is approved by the Minister, yes.

But they have it in the first instance to do that, there is authority for them to do that, is that correct, and not the Board? -- The Minister having found or being informed of the intention of the council may seek advice from the Board in as far as the finances are concerned and whether that project is viable is not and if the Board may advise otherwise the Minister may use his discretion to disallow such a continuation of such a project. (30)

Yes/....

Yes but the Minister may also confirm their decision, is that correct? -- He may approve.

So they have authority to decide on allocation of money? -- As I have put that they are limited. The limits are that they cannot go ahead unless the Minister approves.

But do you agree they have, let us put it then, limited authority then on budgeting? -- Well I do not see it as authority. I see it as the right to set out their needs, to articulate their needs but in as far as the decision making then that depends on the Minister the way I see it. (10)

What do you mean in this, you also in your objection to the councils you also said that they, the council has no financial constraints. What do you mean by that? -- By financial constraints I meant that the Council depended on the rentals in the townships to ...

COURT: Did the witness say that the Council had no financial constraints?

MR JACOBS: Well that is my note on it.

COURT: I thought it was subject to constraints that the witness said. The complaint was about the constraint itself. (20)

MR JACOBS: Yes, I will leave that at that sir because my notes are not so, they were going a little bit fast yesterday, that is why I asked him what he means by that. So what is the, can you explain the constraints, what do you mean in the constraints? Can you elaborate and give us a clear picture of what, when you refer to constraints? -- They depended on the rentals for financing their projects. They had no right to allocate land on which to put up projects which could bring profits that could be of the benefit of the community.

Yes? -- That is what I meant by that. (30)

Now/....

Now during 1983 did they not have other income except the rents, as you called it? -- Well from the Board, from the sales of sorghum beer and bottlestores they could gain something from the Boards as Community Councils. But with the Town Councils it meant that these the Board had unto itself, the council, the local council itself could not gain anything from the sales of liquor which is one of the most viable financial projects in the townships and later, as it became apparent, these Boards also were to be sold to private people and not to the council. So the council remained now solely with the rentals(10) as a source of income.

Another point raised by you that the councillors, correct me if I am not correct, the councillors were not democratically elected. That is one of your complaints. -- That is so.

Is it not so that the people can nominate any person to stand for the council? -- What I know is candidates presented themselves for election and not through nominations and they paid in an amount of deposit.

COURT: What do you mean? You mean a deposit which you will lose if you do not get a certain percentage? -- That is it.(20)

But is that not normal electoral practice? -- That is normal electoral practice but inasfar as I can say in the Vaal complex these people stood there not being representative of the people.

Yes but is not the election, the purpose of the whole election to determine whether such a person is to represent the people or not and which person is to represent the people? That is the whole purpose of the whole election. -- I fully agree with that. But now with the structure not being acceptable itself anybody who can stand there, whether people (30) approve/....

approve it or do not approve of it, as long as there is no opposition within the structure then the person will get the seat.

Yes but that is of your own making. You are entitled to oppose those people and take all the seats. -- But as I put it in my evidence-in-chief that because of the problems I had with the structure I would not go into such a structure. And this was the feeling of more people in the Vaal complex.

I appreciate that point. That point you have made clearly but the question to which attention is now being directed is (10) whether councillors were democratically elected and you say they were not democratically elected. -- Well I am saying I did not see that as democratic elections.

MR JACOBS: Just to round off this point anybody can be nominated for election, you can even be nominated, or anybody that you like can be nominated and the people can choose between the different candidates just as they like, nobody forcing them to vote for somebody? -- If the nomination is done by people and it is the people again who elect, yes.

What do you mean by the people? -- In my answer I was (20) trying to make clear my question because the question was not clear itself. It did not say who was nominating, it only spoke of people electing. So that is why I am saying that if people nominate their candidates then these people go into elections, yes. By people I mean those people who would be represented by such a structure.

COURT: Yes I do not understand it. Is your idea that a candidate may not be nominated by one man, he must be nominated by a group before the election is democratic? I am not talking about elected by a group but nominated by a group to stand (30)

as/...

as a candidate? Is that what you mean by nomination? -- By nomination I mean that a nomination should come from the ranks that the structure would be representing.

From the people? -- From the people.

Say from the rent payers? -- That is so.

Well could not one rent payer nominate another rent payer to stand as a candidate? -- That can happen.

Now would that not be democratic? -- That would be democratic. But if I may explain that why I spoke in terms of people. The advocate did not indicate where the nomination(10) will come from. There are instances whereby nominations say in a particular structure that the nominations may come from the top but the elections come from the bottom of the structure. So the question was not clear as it was. That is talking in terms of a nomination and it does not say who will nominate. That is why I was just putting it clear that if it is the people who nominate then the people take part in the elections then that is democracy. So that way my explanation fully agrees with His Lordship's explanation.

Yes but now when you talk of "the people" what do you mean(20) by "the people"? I do not see "the people" as an entity. I see people as individuals and cannot any individual ratepayer, ratepayers they are not actually but any individual has got the right to nominate another individual and would that not then be a democratic nomination if he is chosen by the people who have the right to vote, would it not be a democratically elected council? -- Well if the council is to be representative of the people where it is to be instituted the nominations come from there and the elections come from there. Then it is democratic. (30)

But/....

But now let us make it practically. In your situation the nominations did come from people who were living in the area, from the bottom, not from the top. The candidates were not imposed by the Minister or by the Board. The candidates were nominated by other people living in the same area? -- Well My Lord the situation even in my area I saw a candidate who came to introduce himself to me as a candidate and who was saying that he was standing for a certain party, a party which was made up of candidates itself and I did not participate in such a nomination and I did not think any of my neighbours (10) knew of such nomination. That is why I did not see it as a democratic process in that instance, because no open nominations were done.

How do you mean an open nomination? A nomination just means that somebody is put up as a candidate by somebody who nominates him? -- Well I did not know who had nominated this particular person at that stage.

Does it matter? Surely it was somebody in the area? -- Well I cannot talk in terms of things I do not know really, because like I am saying that my aim is just to represent (20) my case as I know it to be, to have been the case at that instance.

No I must, I am asking you these questions not to trip you up but I must get clarity on exactly what you mean, why you say it is not democratic. My understanding of the situation is that if everybody has the right to nominate candidates and everybody has the right to vote for those candidates it is a democratic election. And in this situation everybody did have the right to nominate candidates and everybody did have the right to vote. Now on what basis can it then be said (30) that/...

that this was not a democratic election? -- Like I said that what became apparent to me was the elections and not the nominations.

MR JACOBS: I did not hear the last part, can you repeat it, I did not hear that? -- I said what I observed was the elections and not the nominations.

What did you observe about the elections? -- That there are people who participated in the elections.

So what is wrong with that if people participate in the elections? -- I was answering the question that, actually (10) I was clarifying that I did not see nominations taking place. What I saw was candidates who were asking for to be elected and not to be nominated. That is where I based my argument that that was not a democratic situation.

Did you try to find out or to check up in the offices where the nominations are received to see whether they were nominated? -- Well I spoke to a candidate.

So a candidate stood without being nominated? -- That was the picture I got.

You did not go and find out and check in the office? (20) -- No I did not go out to the office.

Why not? -- Because I felt that what I had got from the candidate was enough.

COURT: Did the candidate come along and say "Will you vote for me"? -- That is so.

Now is that not democratic? I thought that was what President Reagan was doing in the last election. -- I am not against the election campaign.

Yes? -- And I am not questioning the election campaign. What I am talking about with the Learned Advocate here is (30)

the/....

the question of the nominations, that did not come to me at that stage that there had been any nominations.

Do you mean that this man was campaigning before the nominations had closed, before there had been actual nominations in terms of the ordinance, the law, the Act? What do you mean? What was wrong with what he was doing? -- He was campaigning for elections, which was the right thing to do.

Yes? -- The thing is what I am saying is there was no evidence to me that this person has been nominated by the people from whom he is canvassing elections. (10)

By how many people? -- Sorry?

By how many people should he have been nominated? -- Well even if be one, like the Bench suggests, it can be even one but that was not apparent to me at that stage.

But did you ask him? Who nominated you? -- Yes I asked him who nominated him.

And he said? -- Well he said ...

Members of my party? -- He paid in the deposit, that is how he understood the nominations himself.

ASSESSOR (MR KRÜGEL): Did he nominate himself? -- That was (20) what became apparent to me.

Would you be satisfied if it was public nominations in the White elections for the House of Assemblies they have a nomination day and the meetings of the parties are held in public in Pretoria for instance, in the Department of Justice building, and the nominations take place publicly. Is that what you have in mind? -- That is what I have in mind.

So you do not want private nominations in semi-secret so that nobody else knows that a man is being nominated and where and how? Is that what you mean? -- That is what I mean. (30)

COURT:/....

COURT: Well is that correct? Were the candidates nominated in secret? Do you mean nominated, the actual handing in of the candidates name with the electoral authorities? Is that what you mean nominated? -- That also from the people who decided that who would be the candidate. Because before it comes to the electoral officer as a nomination it must have had a base where it comes from.

Mr Vilakazi I ... -- So this I did not get any clarity from the councillor ...

I get the impression that your idea of democracy is (10) that a candidate cannot stand even if nominated by one person but a whole group, actually the whole community has to get together to nominate this person before he can stand as a candidate, is that your idea of democracy? -- The whole group plus the one person but they should be known, should be known to the whole group on whom this person is seeking votes. If it is not clear who nominated that person and if it cannot be clear then one cannot see it as a democratic ...

Well that one can determine who nominated him because that is with the electoral officer, he has the papers. (20)

MR JACOBS: I want to go to another point. Can you tell me did anybody in Evaton lose their stands? -- Many people in Evaton lost their stands.

How did they lose them? -- Through expropriation.

When? -- From as early as the periods of the 70's.

I thought, I understood your evidence to be that there were only plans for that? -- No.

That they will lose a third part, or you mentioned here one eighth and two eighths and you .. --- That was a different matter that we were talking about with respect to Your (30)

Lordship/....

Lordship when I spoke about the division of property I was referring to the replanning scheme.

Now when did they lose, why did they lose their stands?
-- Many people are still asking the question why did they lose their stands because they had the rights to the stands.

Was not the whole area then expropriated? -- It was not the whole area, it was particular individuals who lost their properties.

COURT: Could I just get clarity Mr Vilakazi on this. I thought Evaton was an area where Blacks had the right to own property. (10)
-- That is so.

And you said that at some stage, I think you mentioned in the 60's, expropriation started. How long did that last, that spate of expropriations? -- I started in the late 60's and continued into the 70's.

Yes. How far into the 70's? -- I may not be clear with regard to the exact year.

So can one say that by the middle of the 70's the expropriations had stopped? -- No by the middle of the 70's the question of replanning was ... (20)

No let us not talk about new plans, actual expropriations. Actual expropriation I am talking of, the taking, where in fact it was taken. -- Yes. If my memory serves me well that was still continuing up to that stage.

Up to what stage? -- Up to the stage when a number of organisations took the local authority to court with regard to the expropriation of land, and that was in the 70's, in the late 70's.

Yes, now in 1980 and after 1980 were there still expropriations? -- Well I am not clear, I am not sure about that. (30)

So/....

So actually if you are not sure that there were expropriations in 1980 and afterwards your complaint was that there was talk of a replanning of Evaton? -- I did not mention it as my complaint. Then I referred it as evidence of a speaker at a meeting.

His complaint? -- His complaint.

MR JACOBS: Now do I understand it correctly then that you do not know of any people being deprived of their stands in Evaton in the 80's? -- I may know some. I do know some.

When were they ... -- In the 80's? (10)

Yes. -- No. I am sorry I did not hear that, in the 80's not.

Now then this EXHIBIT AN15(7) is not fully correct in this place where it said "And the residents were deprived of their stands in Evaton"?

COURT: Please, before you answer, give the witness the document first? Where are you referring to?

MR JACOBS: It is in the paragraph "The organisations consoles all those who were injured" that paragraph, and at the end of that paragraph "and were deprived of their stands in Evaton." (20) That is the paragraph that included "fought". -- Well my understanding of that sentence is that it refers to the replanning.

No that was under the replanning, there was no actual depriving of stands, there were no actual depriving of any stands? -- Well since the replanning itself was to constitute sub-divisions of property then it means it deprived the owner of the right to use his stand the way he felt he wanted to use it.

That was only planning you said, nobody ... -- It was going on, the replanning is a whole process, it is not a (30) plan/....

plan, it is the replanning, that is the restructuring, that was the whole process that was now in fact at that stage.

But nobody was deprived of his stand? -- Well I may not have facts with regard to Evaton as such. As it is here it was a joint pamphlet for both the Vaal Civic Association and the Evaton Ratepayers Association and as such there are limited facts that I can give with regard to Evaton Ratepayers Association and I am sure that this Court will get much more evidence with regard to such position.

And if nobody was deprived of his stand then this is (10) wrong? -- Well I have just indicated to the Court my understanding of the deprivation of the stands.

But listen to my question, if it happened that nobody was deprived? -- If it happened that nobody was deprived.

Then this is wrong? -- If it happened that nobody was deprived then that would be wrong.

Yes.

COURT: So you cannot say whether this is correct or incorrect? Is that what you are saying, you do not know whether that factual statement that people were deprived of their stands (20) in Evaton recently is correct or incorrect? -- Well like I am saying that I cannot say to what effect the replanning would be depriving the people ...

No, no, it is not a question of what would happen should the replanning become effective. The question is is the statement correct that people were, past tense, deprived of their stands in Evaton? If you say it is correct no doubt counsel will ask you about it. If you say "I don't know" well then I know what your answer is. -- Well I do not know because replanning was in fact there. (30)

MR JACOBS:/...

MR JACOBS: So as I understood your evidence yesterday, if I understand it correctly, it was your intention to exclude the children from political activities? Is it correct or wrong?
-- Well I do not think that statement would be correct because yesterday I deliberated in trying to explain how do we see children in the Black community. Those at lower primary and higher primary school going age who would normally be referred to as children, but there are those who are of high school going age who we normally would refer to as students but they are normally school going children and it is those that were of (10) lower primary school going age that would be stopped from participating at any meetings.

You see it is because in this same exhibit the children, without any limits, were invited to the next meeting, the meeting of the 9th. Do you agree to that?

COURT: Where are you reading?

MR JACOBS: "Residents, Children", look at the bottom of it where it is "Meeting". "Residents, children, parents and workers let us meet". Is it correct? -- That is correct.

So now you invited the children? -- Those of high (20) school going age.

But there is no qualification here that high school children? -- In my community it was understood who we referred to when we talk in terms of children to this type of meeting.

But you just now a few minutes ago explained to the Court that high school children are students actually, referred to as students and not children?

COURT: No, no, he said they are not referred to as students, they are still referred to as children.

MR JACOBS: Do you regard them as students? -- Well I (30) would/...

would regard them as students.

How are they regarded in the community? -- Because of they are school going they would be referred to normally as school children.

And do you agree that children is included here without any restrictions, would be open to any children? -- As it is on paper it would be open to any children but in my community it is understood what is meant by those children for such meetings.

So why did you invite them to the meeting of the 9th?(10) Children in an open invitation? -- As I have said earlier that you cannot separate these children of high school going age from any community affairs. Most of them have got responsibility in their families and most of them at a very early age have been exposed to community work, to the effect that anything that happens in the community does affect them.

Is that not the same with all the children? -- Well I cannot call upon a child of lower primary or high primary school going age and invite him to a meeting where I am discussing community affairs. That child will not have had (20) the experience that a child at high school will have at that stage.

Is it not important to have the so-called children at the meetings and to participate in the activities, political activities in the township because they are so militant? -- That is not right.

Are they militant? -- That is not right.

Is it not generally known and referred to as the militancy of the youth? -- Not by myself.

But generally by other people? Generally known? -- (30)

Well/....

Well that depends on who speaks this and what does he refer to. If the person says the general meetings of the youth then that person would have reasons why he says that, but I have never used that word myself personally and I have never seen, the enthusiasm of the youth, their keenness to learn, to know, to participate in matters that affect their communities, I have never seen that as militancy. And I will never refer to it as militancy.

I will come back to this with a special document for you later but tell me this, this high school children that you (10) refer to so as part of the political scene ... -- Of the community, not political scene.

Is it not all over, are they not the people in COSAS? -- Their individual affiliation did not come into, did not play any role when the invitation was issued.

But answer my questions. -- And if I may add ...

Do not the children and the high school children, did they not belong to COSAS? -- There are some who belonged to COSAS.

And that is a militant organisation is it not? -- Not to my knowledge. (20)

It was even banned? -- I do not know the reasons for the banning of COSAS because I was not, I was already detained, I was in jail when COSAS was banned, I do not know the reasons why COSAS was banned and I cannot be judged, to be the judge of the banning of COSAS at the moment because many people I have read in the Press are contesting that, even there have been court applications for the unbanning of COSAS and I cannot commit myself on something that I do not know.

But you cannot say that they are militant in COSAS? You cannot say whether COSAS is a militant organisation or not? (30)

-- I/.....

-- I do not know COSAS as a militant organisation. That I have said earlier in my evidence.

So what was the purpose of this meeting of 9 September 1983? -- The purpose of the meeting of 9 September 1983, as I put it in my evidence-in-chief ...

COURT: Sorry was it 1983 or 1984? -- 1984, I am sorry.

MR JACOBS: Sorry My Lord, 1984. -- As I have put it in my evidence-in-chief that the intention was to call upon the community to become and for the community to assist in all, by all means in bringing normal life back to the community (10) and to discuss the report back that a delegation would be bringing, that is the delegation that had met with the members of the Development Board and the Community Councils.

Yes. Anything else, was there anything else on the agenda? -- The pamphlet itself was the agenda.

No but was there any other topics that had to be discussed or was it only on this question of bringing back the township to normality and to discuss ... -- Well bringing the township back to normality would be the discussions also of what assistance people want and how this is to be handled. (20)

Was that all? Anything else that had to be discussed? -- Well if I remember well that is anything else, unless I refer to this document to ...

That is why I asked you...

COURT: Now just a moment. If you want to refer to the document refer to the document. -- As Your Lordship pleases.

The document being referred to is EXHIBIT AN15(7). -- That is so My Lord.

MR JACOBS: Yes? -- As far as I remember the reasons were as I have put them. (30)

Now/....

Now what about the other things to discuss in connection with workers and schools? -- That would be part of bringing the community back to normal.

No but it is specifically other things to discuss? -- Those are the things I referred to under bringing the community back to normal.

No but that is, is it not the first part of that under "Meeting"? -- Community life back to normal.

Will you have a look at it and there stands "Meeting", is that correct? -- That is so. (10)

"Residents, Children, Parents and Workers let us meet at the Roman Catholic Church in Small Farms on Sunday the 9th of September 1984 at 12 noon. The meeting is in connection with the events of this week in the Vaal Triangle. The organisations appeal to the community in general to be peaceful and not to destroy other people's property." That is the part that you have already explained to the Court, to bring back normality to the Vaal. -- My Lord with respect I referred to that part as bringing calm to the community.

And other things, other than bringing calm to the community and to the Vaal, "Other things to discuss is in connection with workers and schools". -- And that is when I referred to bringing life to normal in the townships. (20)

Can you explain how bringing back life to normal, how did you bring it in relation with workers and schools? -- Yes, in normal life every day of one's life one goes to work and the young people go to school. But during that week people were no longer going to work despite the fact that the stay away was called specifically for one day, that is 3 September 1983, and children were also not going to school. So that was (30)

abnormal./...

abnormal. Now we were calling upon people to come back to some form of abnormality in society, or some normality. To bring back normality to society.

Mr Vilakazi I want to go with you on that word the meaning of which is fighting or protest. I got a dictionary here...
COURT: Well then you must please define the word you are referring to, you are referring to the word "fought" in EXHIBIT AN15(7) in the paragraph which starts with "The organisations console" and then you are referring to the word "itseka" in the original, is that correct? (10)

MR JACOBS: That is correct. And I would like to, it is a dictionary of Southern-Sotho/English Dictionary, A Mabila and H. Deitelin, reclassified and revised and enlarged by R.A. Parols . It is a 1959 edition. And according to this the word "itseka" also means "fight". I will read to you

"Itseka - to dispute, to discuss, to quarrel, to claim to fight."

Do you agree to this? -- Fully.

To fight?

MR BIZOS: That is the last meaning My Lord. (20)

COURT: Yes I heard that Mr Bizos.

MR JACOBS: And the other one, Hluluana, I cannot pronounce the other word that you mentioned, also means "to fight".

COURT: Is it olwana, or holwana, please spell it?

MR JACOBS: They spell it I-w-a, and I-w-a-a, imperative is I-w-a-a, present tense is case I-l-w-a. My pronunciation is bad on this. I will give you the book then you can have a look at page 283.

COURT: Well anyway can you just read to us what you say that meaning is? (30)

MR JACOBS: /....

MR JACOBS: It means "to fight", then there is a phrase, "or lebetse, lebeletse a didlatsa ilwana le alwa" (?) "He watches letsa fight and fight". So the meaning is fight of this word, do you agree? And the point I am making to you is that yesterday you said this word itseka can only mean protest and not fight? -- Well the dictionary, as the Learned Advocate has put it here, does refer to fuitseka(?) as to argue, to fight, it is one of the meanings, to explain that in broad terms. But now in the translation the translator decided to use the meaning of fighting as the most clear to it. (10)

But you are not answering my question. Yesterday you said that the word "itseka" can only mean protest and not fighting. So you were wrong in that?

COURT: Well actually he said protest can also be rendered as fight. The word "fight" includes the concept of protest.

MR JACOBS: I will accept it then My Lord and leave it. But do you agree in the context of what happened in the Vaal the word "itseka", the most appropriate is "fighting" in the context in which it is used here? -- The most appropriate is my submission that it would be protest, but on the other (20) had I do not have quarrel with the use of the word "fight" depending on the context in which one understands it. Because the use of the word "fight" has been so broad, so broadly used in our day to day lives that we cannot necessarily, when we hear somebody talking in terms of a fight and say that such a person is thinking of being up in arms. We always talk in terms of fighting taxation but it does not mean that we are going to take up arms to fight taxation. We talk in terms of one being in hospital fighting for one's life. This is self-explanatory that a sick person who is in hospital in an (30) intensive/...

intensive care unit cannot have the simplest of strengths to do anything. How can such a person fight for his life? By merely being strong and willing for more life. That is how he fights for his life.

And that is the idea that is conveyed, that is taken out to the people outside, that about fighting? When somebody reads that he will read it as fighting and not with the context as you said it here? -- Well My Lord it is ...

Then it is fighting as a whole. -- My respectful submission that the word, the interpretation is not what the people in (10) the Vaal complex read. The people in the Vaal complex read the print on "huitseka" (?), which is very much understandable that we did not necessarily mean "holwana".

How would you know what the people understand who read that pamphlet? -- Because the argument is based on the word "fighting" and not on the word as it is originally. The argument is based on the interpretation of that word.

But you are not in the mind of the other people, you cannot say how he read it, it is only you must read it on the face value of it? -- But the interpretation was not supplied, (20) was not distributed. The interpretation was used for the court purposes.

And the word "iteseka"? -- That was used.

Just tell me do you normally lose your life in a protest, or lose property in a protest? -- Sorry?

Do you normally lose your life or property in a protest?
-- No.

Well that is the context of this word, people losing their lives and property in which this word "iteseka" was used.
-- Well I have said in my evidence-in-chief that I would (30)

not/....

not attribute the loss of life and property to the protest in the Vaal complex. Although that might have happened the same day. The basis of the protest was not to endanger lives or property. As you said I have explained that at the meeting of the 26th the resolution that was taken was for a peaceful protest march from Point A, the Roman Catholic Small Farms, to B, that is the Administration Board offices.

And the other point is that the word "Stop" in paragraph 3 there, what the people objectively reading this document will understand "stop" as it stands here and not as your (10) explanation ...

COURT: Just a moment, what word are you referring to?

MR JACOBS: The word "stop".

COURT: In which paragraph?

MR JACOBS: In paragraph, the letter three.

COURT: To stop the Lekoa Town Council?

MR JACOBS: Yes. Is that correct?

COURT: What is the question again?

MR JACOBS: That anybody reading this pamphlet objectively will understand the "stop" here to make it stop functioning, (20) to make it unworkable? -- Well I do not know that term of unworkable but the stopping of the function of the Lekoa Town Council as a council was based on the call for the resignation of the councillors.

Yes, and that is an explanation but somebody who does not know about that and reads this and understands it that they must be stopped. -- This is referring to the march, to the events, the past events, as the pamphlet was issued on the 9th. It is not referring to what the future is. It does not say that what are people going to do in the future. It is (30)

referring/....

referring to the past, and if you look at the past the past we referred to the resolution that councillors must resign.

You say it is referring to the past. Just read the paragraph just before, the one on top here:

"The organisations would like to emphasise that they support community struggles in general."

So it is not referring to the, back to the march, but it is referring to the general statement. -- General as it was, the situation in the Vaal complex.

Generally, especially, do you agree it is not specified(10) here that it is in the Vaal complex? -- I agree it is not specified by the pamphlet as a whole, taking it in its whol totality, it refers to the situation in the Vaal complex after the 3rd, because of 3 September and thereafter. This is the responsibility that the organisations took upon themselves to go back to their people to ask for calmness and to call the people to bring back normal life in the community.

Yes but this is something quite different:

"The organisations would like to emphasise that they support community struggles in general, especially (20) to stop ..."

That is not referring back to the past but that is a general statement that the organisations, which include VCA, in general would like to stop the Lekoa Town Council and make it unwork-able? -- Would like to stop the Lekoa Council by asking it to resign.

But this is not what somebody who reads this will understand? -- But this was

The meaning conveyed here is something different to what you explained here in court. -- This was spread amongst the (30) people/....

people of the Vaal complex, the people who know what resolutions they took and those resolutions were the councillors must resign.

COURT: But the people also knew that a number of councillors had been murdered and that their properties had been burnt down. Would the people not think that that was part and parcel of stopping the Lekoa Town Council from functioning? -- I am sure that that could have been explained if there had been any misunderstanding, that meeting of the 9th was the platform whereby this could have been explained to the people. Un- (10) fortunately it was banned.

Is it correct that the resolution of the Vaal VCA taken on the meetings was never to stop the Lekoa Town Council to function in the Vaal Triangle but it was to ask them to resign? -- That is how the resolution came.

This is quite different from that. -- If the Lekoa Town Council resigned then the Lekoa Town Council could not function. Something else would come in and that was the Development Board.

Were you satisfied with the Development Board functioning there? -- There are reasons why we thought of approaching (20) the Development Board. Firstly as I put it was because the Development Board was the government structure...

COURT: No I wonder whether you are still on the same wavelength. This question deals with the resignation of all the councillors, the stopping of the functioning of the Town Council and the Development Board taking over. -- That is so.

And the question is were you in favour of that, were you satisfied with that? -- Yes, we were satisfied with that.

MR JACOBS: Is that also the UDF policy? -- I do not know what the UDF policy is with that regard. (30)

But/....

But did you not subscribe to UDF policy and were satisfied to join the UDF as an affiliate? -- At the time we were affiliated there was no Development Board.

I beg your pardon? -- There was no Development Board, there was no Town Councils. What we wanted in the Vaal complex was as I have put it in my evidence earlier that we wanted a structure that the people would have been consulted with putting this structure into operation, that it would be a structure that would have been agreed on by the people, a structure that the people would support and a structure that would be representative of the people and unless such a (10) structure came and until such a structure was to be instituted then the Development Board would be in a position to carry forward the local authority duties and these were the points that were to be discussed on the protest march when we were going to, the people of the Vaal complex were going to go into negotiations with the Development Board on those bases.

I just want to get something clear. You say that when you affiliated with the UDF there was no Development Board? -- There was Administration Boards in 1983, at that time.

Is it not the same thing? -- They are the same thing (20) as they are government structures.

COURT: Is your answer yes or no? It is the same thing or not? -- To some extent they are the same thing.

And to what extent are they not the same thing? -- In that they are Administration Boards, as they were they were there to service the townships. Now with the inception of the local authorities the services now were rendered by the Black Local Authority and not the Development Board. It is one of the differences that I saw.

MR JACOBS: I will come back to this I just want to make (30)

something clear before I do. I just want to put it to you that the so-called children were an important part of the action in the Vaal by the VCA, under the auspices of the VCA? -- I would not accept such an allegation.

I just want to refer you to a few of the exhibits. Have you got EXHIBIT AN15(1) in front of you? Have you got it in front of you? -- That is so.

Is this a document issued by the VCA? -- Can you repeat your question?

Is this document issued in the Vaal by the VCA? -- The (10) document AN15(1) I saw for the first time in court here, and as such I do not know its identity.

It was distributed in the Vaal, you will not dispute that? -- As I did not know its identity I would not dispute that.

It reads, the translation reads:

"The resolutions of residents, children, parents and workers, Vaal Triangle".

That is the resolutions of the children as well, they were brought into this, is that correct? -- I thought I had (20) already clarified my position with regard to the children, who I referred to as children.

They are so important that they are specially brought into this resolution? -- Well as far as I understand that sentence there it is a reflection of what elements of the community were involved when the resolutions were taken.

COURT: "Children, parents and workers" are all residents, is it not? -- That is so.

So why repeat "Children, parents and workers"? -- As I said, with full respect, I have no personal knowledge of (30)

this/...

this document, I merely am answering and trying to explain what I see in print here in front of me.

MR JACOBS: And if you read this further it reads:

"Resolutions of residents, children, parents and workers at meetings held during this month against the increase of rent payment, payments of water, electricity and the eviction from houses by male/female councillors on Monday 3 September 1984. No children or workers must go to school or work on Monday the 3rd of September 1984."

So that is also the children's resolution? Correct? -- These (10) are the resolutions of the residents of Lekoa.

And children? -- Inclusive.

Yes, and parents, and workers? -- Those are the elements that make up the community I come from.

"This is to show that all the councillors must resign at once because they bring only poverty, difficulties and grievances. Other resolution is all businesses must be closed for 24 hours (twenty-four hours)."

COURT: Now what is your question?

MR JACOBS: This is also part of the children's decisions? (20) Is that correct? -- I do not know why the Advocate has got this special emphasis on the children but I have stated earlier that members of my community participated at the meetings as members of the community and the decisions that they took were adopted as resolutions at these meetings. The mere fact that the producer of this pamphlet decided to categorise these people as line out here does not mean that any section of the community that is being referred to here is seen in isolation of the entire community. The problems that the parents face in the community, these children have experienced. In his (30) report/...

report the Professor Van der Walt states categorically all the problems that he came across when he interviewed people from the very same community that I come from and why he thought the role of the children played there in their lives was of importance, because he sees them as I see them, as being exposed to hardships at a very early age, exposed to problems that their parents face. I mentioned yesterday that amongst these very school going age children are people who have taken over total responsibility over their own families. After school it is going back to be busy with something else, (10) selling vegetables, peanuts and oranges, to make ends meet, to keep the home fire burning, to take mother to hospital. The pensioned old men, when they go out for pensioning, they come back, they are mugged by thugs and the children cannot get money to go to school and there will always be complaints like because the rents are coming up and the wages are not balancing with the rents the children want money as Black children have got to pay for their school, their school fees, their school books, everything. Then when they want money for school trips, educational trips, something that is going (20) to benefit them, the parents would like to see the children going but when they look the budget is affected by the new increase and the parents will always say the rent is taking our money. That is exactly how the professor sees it. The Learned Professor has put it very much clearly there in his report.

Are you finished now? -- Yes sir.

My question was that they are an important part in the struggle in the Vaal?

COURT: That is now apart from this document whose author (30)

the/...

the witness does not know?

MR JACOBS: Yes.

COURT: So it is a general question?

MR JACOBS: Yes.

COURT: It is put that they are part of, an important part of the struggle in the Vaal? -- I do not see the children playing any more important part than their parents play in the community affairs.

MR JACOBS: Is it correct there is a similar document, EXHIBIT AN15(2), is more or less the same but in other languages. (10) So it was distributed in different languages in the Vaal? Emphasising that children were part of the resolutions? -- I see the language being the same. What is different is the wording, the structuring of sentences.

COURT: In which language is it? -- It is in Southern Sotho. Both AN15(1) and AN 15(2). -- That is how I find them. Yes thank you.

MR JACOBS: And then AN 15(3), would you agree this is a joint UDF and VCA pamphlet? Is that correct? -- It is a pamphlet that was printed for the Vaal Civic Association and we found at (20) UDF offices.

My question is that is a joint ... -- I would not say whether it was printed by the UDF so I cannot say it is joint UDF/VCA pamphlet.

The badge, or what do you call this, of UDF is on this pamphlet? -- The UDF logo is there yes.

Logo. -- The logo I see it is there.

And it was issued by the Vaal Civic Association? -- As it is put there, yes.

Now I put it to you that even in this document a few (30) misconceptions/....

misconceptions were relayed to the public at large? -- No.

MR BIZOS: My Lord the evidence is that this was not distributed. -- That is so.

I am sorry to interrupt.

COURT: Yes, no that is quite alright. Yes Mr Jacobs?

MR JACOBS: Let us just check on this. Why do you say it was not distributed? -- I have said in my evidence-in-chief that when we received this pamphlet and having gone through it we decided that this pamphlet was problematic and it cannot be distributed. So it had to be destroyed. (10)

And was it destroyed? -- I said in my evidence I left it in the care of somebody who was to destroy it.

In whose care? -- Accused no. 6.

Where did you leave it? Where did you leave it, where was that? -- At his house.

At his house. And what were the problems, except for the one that you mentioned that it was not a joint pamphlet issued by the VCA and ERPA?

COURT: Now just a moment. Yes the question is apart from the objection that ERPA did not figure in the pamphlet what (20) else was wrong with it? -- What else was wrong with it was that it did not call for a meeting which was what we primarily needed a pamphlet for.

MR JACOBS: Yes? -- And secondly it was not offering condolences to people who have been affected by the events of the 3 September on behalf of the organisations as we had intended in the pamphlet.

Yes? -- Thirdly it did not call for calm and it did not call people back to normality in the community. Thirdly, fourthly I mean it did not, it referred to three telephone (30) numbers/...

numbers where people could get assistance and at that time we saw it as misleading, that part.

COURT: The telephone numbers were misleading? -- The mere appearance of telephone numbers there were misleading, as I have said that we believed that such people who could be of assistance there we thought them to be in detention as we could not trace them anywhere.

MR JACOBS: Anything else? -- That is what I spoke of as was the position on 6 September when we discussed this pamphlet.

And the other information, the first part of it, is (10) that correct? -- Well that is not what we had discussed.

Now if this ... -- In the pamphlet.

Do you know who drew up this pamphlet and had it printed? -- We did not know.

It could have been Esau? -- I cannot dispute that as I did not get to get hold of Esau thereafter.

Together with the UDF? -- As I do not know who printed this pamphlet, who produced it and the Learned Advocate here suggests that it could have been so and so I cannot agree and say yes it was so and so and the UDF. (20)

From where did you receive it? -- From the UDF offices.

So UDF supplied this pamphlet to you? -- We found somebody in the UDF offices who gave us this pamphlet but the person we had spoken to, as will be evidence led by accused no. 6 here who spoke directly with REverend Frank Chikane, is that he himself did not know anything about this pamphlet and he said that our pamphlet that is AN15(7), that we dealt with earlier in the day, is the pamphlet that we will be getting later and this pamphlet was sent through with Mr Mefferson Marobe and Reverend Lord McCamel when they came to my house (30) on/....

on the evening of the 8th, and that is the pamphlet that we had discussed at accused no. 6's house. Together with the Reverend Frank Chikane.

. But the UDF gave you these pamphlets, correct?

MR BIZOS: A person at the UDF offices My Lord. Is the evidence My Lord.

COURT: Yes.

MR JACOBS: Who was that person? -- I only know his first name as Mandla.

Mandla? -- Mandla yes. (10)

What does he do, do you know what he is doing there? -- No I do not know what is he doing there.

COURT: Where were these pamphlets when you got them from Mandla? -- Just outside the door, off the lifts, on the floor of the offices. Now opposite the lifts is a staircase that goes down and there is a screen. Now on the screen into the corridor right at the corner there. As we came around we said we are from the Vaal, we would like to see Reverend Chikane. He said "Oh I am on my way to the Vaal, I have got pamphlets for you". That is how we got them. (20)

ASSESSOR (MR KRÜGEL): Was that Mandla now who was on his way to the Vaal? -- Yes sir.

COURT: What would you say to the suggestion that seeing that the three telephone numbers set out on EXHIBIT AN15(3) were those of Esau Raditsela, Edith Lethlake and accused no. 17 and that the United Democratic Front's telephone number is also set out there that at least the three persons mentioned and the United Democratic Front had a hand at the compilation of this pamphlet? -- I cannot agree, deny or dispute that but what I know is that the person we had deputed that, to do the (30) pamphlet/....

pamphlet did not know anything about the pamphlet himself.

That person being? -- The Reverend Frank Chikane.

MR JACOBS: Will you have a look at EXHIBIT AN15(4).

COURT: Yes what is the question?

MR JACOBS: I think he is still reading it. Have you read through it? -- That is so.

This is a document issued by the Vaal Civic Association?
-- I see it is written Vaal Civic Association.

Do you know anything about this pamphlet? -- I saw this pamphlet for the first time here in court as an exhibit. (10)

Did you not discuss before this at the council meeting, executive meeting, the issue of this pamphlet or anything about it? -- No.

So this is a pamphlet then issued by the Vaal, also issued inviting the children to a political meeting, is that correct?
-- My explanation on the involvement of children there goes, as I put it earlier on that ...

Yes that is your explanation. My question is children were also specifically invited to this meeting? -- According to this pamphlet, yes. (20)

COURT: The words "Asinamale" seem to have become a slogan of the Vaal Civic Association because if I remember correctly it was also used in this sense as it is used on this pamphlet in 1983? Did you not sort of announce the VCA with the words "asina male". -- Yes there were words in announcing the formation of the VCA on a pamphlet I think in 1983.

With asina male? -- That is so. But the slogan had not been formally adopted at any meeting of the Vaal Civic Association. Again it would depend on who is printing the pamphlet. (30)

MR JACOBS:/.....

MR JACOBS: Will you have a look at EXHIBIT AN15(6). Do you know anything about this document? -- I also see this pamphlet for the first time in the court as an exhibit.

That is a pamphlet that was distributed in the Vaal?

COURT: Well is it a pamphlet or is it a notice?

MR JACOBS: A notice. -- But as I say I saw it for the first time as an exhibit here in court.

Surely you must know about this because this is in accordance with your resolutions on that meeting? -- I cannot deny that it is in accordance with our resolutions but I (10) see the pamphlet for the first time in court here as an exhibit.

Did not your area committee distribute it or the VCA distribute it? -- When I left the Vaal complex on the 29th this pamphlet was not there. It had not come to my notice, it had not been discussed with me by anybody.

Did you not discuss after the meeting of the 26th to issue such notices to the business people? -- The caucus that we had after the meeting of the 26th was that in arranging for the events of the 3rd a formal meeting would sit on the 2nd between area committees and the executives. And that is how far I (20) was involved in that.

I just want to, while we are, to go through with you shortly through EXHIBIT AN15(8). Can you identify this document? -- That is so.

How do you identify it? -- As a pamphlet announcing the mass rally of 27th November 1983.

Who was responsible for this pamphlet, that it be issued? -- The VCA was responsible for issuing this pamphlet.

Were you part and parcel to the decision to have it issued? -- That is so.

(30)

And/....

And in the wording of it? -- That is so.

And who drew up the draft of this pamphlet? -- Well I cannot then who was given that responsibility to draft it.

And how long before the 27th did you draw it up? -- That I cannot remember, 1986, I cannot remember.

And what did you decide, who had to pay for it? -- We contributed A4 size blank sheets for the printing of this.

Who printed this document? -- It was between Reverend Lord McCamel as the chairman and the Vice Mr Esau Raditsela.

COURT: To do what? -- To print this pamphlet. (10)

C.487 MR JACOBS: How many sheets of blank paper did you supply for the ... -- I had a ream at home that I gave over.

I beg your pardon? -- I had a ream at home that I donated.

How many in a ream? -- I think in a ream is about 500.

I have not been handling reams for the past three years and..

Any other people, did they supply paper? -- Sorry?

Did anybody else supply paper? -- Reverend McCamel himself supplied paper.

Anybody else, Esau? -- Well I would not know with Esau but I remember Reverend McCamel. I cannot remember other (20) people.

You said you discussed this pamphlet before it was drafted and so on, is that correct -- That is so.

Now the speakers where did you get the names of the speakers who will be speakers, guest speakers on this rally? -- The people who were to look for speakers for this rally were the chairman, Reverend Lord McCamel, his Vice Mr Esau Raditsela and the assistant secretary Mr Mike Kgaka. Those were the people who were to get the speakers from outside the Vaal.

So when you discussed this pamphlet did you know the names/....

names of the speakers? -- No. When we discussed the pamphlet initially we did not know the names of the speakers.

And did you discuss that the speakers must be got from the UDF or any of the affiliate organisations or what did you discuss in that line? -- We discussed that we must get speakers who were experienced in community work.

In what way? -- People who belonged to community organisations, people who have been of community service one way or the other.

Now would you say that the General and Allied Workers (10) Union is a community organisation? -- The General and Allied Workers Union is a working community, it is an organisation of a community at work.

And the Release Mandela Committee? -- Well that is a national organisation.

Not a community? -- It is a national organisation.

That is not a community organisation, you know why they invited him there? -- Sorry?

If he is not a community organisation why did they invite Aubrey Mokoena? Did you discuss it? -- No I did not know (20) why Mr Aubrey Mokoena was invited but as a member of the Release Mandela Committee I can understand that he was invited because of his association with the Release Mandela Committee.

Did you discuss on what they must tell the people? In what line they must address the people, what subjects they must address to the people? -- No I have never sat at a meeting where anybody was told what to say at the platform.

Now in this document I see there that you say "Demands decent houses for all". That is very strongly put is it not? -- To say it is a demand? (30)

Yes/.....

Yes. -- I do not see it that way.

From whom do you demand decent houses? -- From the government.

From the government ? -- That is so. It is the responsibility of the government to provide adequate housing for all populations in the country.

So the government, is not that a socialist system? -- No it is the responsibility of the government to provide housing for its community, that is why we have housing communities in government. We have got different departments for development of different communities and for a community to demand housing I cannot understand really the proposition of the advocate to say that that is socialistic. It is the responsibility of every government, every government that has been put into office it is its responsibility to supply adequate health services, adequate housing, provide education for all population groups without discrimination and if a community amongst the communities like we have in South Africa, one community is deprived as compared to others and this community stands up that cannot be said that if that government is going to heed the calls of such a community then that government will be socialistic. Then it means that the Advocate is suggesting that that is a socialistic demand. (10) (20)

COURT: That is what he is suggesting, yes.

MR JACOBS: Is it not so that the government must provide houses for everybody, it is an impossibility? There is some, there is a duty on the people themselves to supply their own houses? -- No there are government houses schemes that are on in the country. I cannot see, we have got the whole complex that is still even growing today, like the Sebokeng complex (30) and/...

and it is not the people who are housing themselves there. When the people house themselves in Mushengu(?) in Soweto, those shacks were torn down because the council cannot allow shacks to be there but on the other hand the government does not provide the people with housing because of lack of land, as it is stated, as I have read in the Press. But those people, people like those who always demand housing and it cannot be said to be socialistic. It cannot be said to be a socialistic demand.

And if your demand is not met and houses are not (10)
supplied for all what then? -- Well no ultimatums are set
out here My Lord.

I beg your pardon? -- No ultimatums are set here.

Yes, but I am asking you what then? -- What then?

Yes. -- Then we will protest march.

And if that is not successful? -- And hold placards and
say we demand houses. That was one of the things that we can
do, alternatives.

And if that is not successful? -- If that is not success-
ful then we will write letters to the Prime Minister. (20)

Yes and then? -- And presently we will write letters to
the President.

And if that does not help? Did you not do that? Was it
not done in the past? -- It has been done in the past. It has
been done.

And was ... -- And through different situations we have
seen the workers using the very same language, we demand
better wages, we demand union recognition ...

I am not asking you about workers now, I am asking you
about houses? -- I am trying to explain the question what (30)
happens/....

happens next, and I want to ensure Your Lordship that our wills are not basically on something that is not there. We are not hoping on dreams. We see what is happening in the country and we know that if we do these things this way this will come up. The mere fact that no commissions of enquiry have been held into the question of the acceptability of the town councils and the rent systems in the black townships and whilst we had commissions of enquiry in the labour field where the problems were there and because of the commissions, these commissions made recommendations to the government and the end result was (10) there were laws made making it, making provision for recognition of full Union rights in the factories. If we have seen such examples why can we not follow the same examples? We still feel that we can, if possible, go on and protest until such commissions are held and our grievances, our real grievances are looked into in the right perspective and our problems are solved in our communities.

So if you are not successful on your demands to the government what then? -- So far there is nothing that has suggested that these demands will not be successful if those workers (20) demands, the clear examples that I have put as the trade unions.

I have seen it in the labour movement and as a member of my community I cannot be able to solve my problems in a work situation and when I come home I have got problems around me, I have got problems in the family, I have got problems amongst my neighbours ...

I am not asking you about your problems. -- ...and I do not, not encourage them. I do not encourage them to protest peacefully as I have seen the workers protesting peacefully and gaining out of it. I can only advise them that way. (30)

I/....

I see also there are demands for lower rents that you can afford? -- That is so.

Now what are the low rents that you can afford? -- The low rents that people can afford is the low rents that would put a stop to evictions for failure to pay.

What is a low rent, what do you suggest? What did you have in mind? -- What I had in mind would be a rent that would be so low that everybody would be able to pay it, not only people who were in certain higher wage brackets but everybody would be able to pay it and everybody will not have the threat (10) hanging on his head of losing his house by being kicked out of the house for failing to pay such a rent because it has been high, not because he does not want to pay it but because he has not been able to afford it. Each time he pays the rent he has got to run around borrowing money from people and whenever he raises a few cents then he goes back to paying back the people the money is being borrowed from.

COURT: Well there are always people who cannot afford the things they have. So there will always, whatever your system is and never mind how low your rental is there will always (20) be some people who do not pay. That is obvious. What is your income? -- My ...

Your monthly wage? -- In 1984?

Yes at the time? -- It was R500.

R500. -- That is so.

And your rent? -- My rent was R57.

Did your wife work? -- She did.

What did she earn? -- She earned about R400.

This is now all per month? -- That is so.

And who were living in your house, only you, your wife (30)
and/....

and children? -- And my aging mother.

And your mother? -- That is so.

So do you say that you could not afford the rent? -- I was not speaking here as an individual.

So is the answer "I could easily afford the rent"? -- Not easily. I could afford rent but not easily.

MR JACOBS: Also for the schools it was a demand, is that correct? -- That is so.

I just want to go to the next phase of the cross-examination then. We go to the meeting of 9 October 1983. (10) Can you just tell me how did you accept the resolutions and how did you propose the resolutions at this meeting?

COURT: When you say you does it mean the witness or the people?

MR JACOBS: You the people.

COURT: Can you not say how were these resolutions proposed?

MR JACOBS: Yes, how were they proposed? -- Some were proposed by being written on pieces of paper.

So can you give us the whole picture now. Where did the pieces of paper come from? -- As I got into the hall and (20) the chairman was talking in terms of these pieces of paper.

At what stage of the meeting was that? -- The stage during the time there were still speeches and the chairman reminded the people about the pieces of paper that have been provided and I took it that they must have been from the chairman or from the platform and were handed over to people so that they can write down what they propose for resolutions at the end of the meeting.

So, just a minute, so if I understand you correctly you did not see the chairman handing out the papers? -- That (30)

I/....

I did not see.

COURT: Did you see any pieces of paper being returned? -- That is so.

MR BIZOS: Now at what stage was it, was it after the speeches or before the election or when were the pieces of paper asked back? -- At the end of the speeches.

All the speeches? -- At the end of all the speeches.

Before the election or after the election? -- Before the election.

So did I get the picture correct then that all the (10) speeches were finalised, then Mr McCamel stood up and spoke about the pieces of paper? -- No, what I am saying is that when I came into the hall there were still speeches and Mr McCamel from time to time was still reminding people about pieces of paper that had been issued earlier.

So did he remind the audience, is that between the speeches or ... -- In between the speeches yes.

IN between the speeches. How many times did he do that? -- I could have heard him two times before he demanded them all back because after the end of Dr Motlana's speech I (20) started seeing some papers going back, but all were rounded up at the end of all the speeches, then he stood and called for all the pieces of paper to be called back.

Yes, and were they then sent back? -- They were then sent back.

Did you yourself complete a piece of paper with a resolution on it or not? -- I did not, I had intended to be amongst those who raised their hands.

COURT: Meaning what? Meaning just a voter? -- No, when the pieces of papers were all up there were people who also (30) came/....

came up with some nominations, some proposals.

Oral propositions? -- Oral propositions.

I see. And you intended orally to propose something? -- Since I had not had the opportunity of getting a piece of paper.

MR JACOBS: So can you tell us then after the speeches and the pieces of paper were collected what happened then? -- These were handed over to Mr Thabiso Ratsomo to read out...

Just a moment, they were handed to Mr Ratsomo to read out?

COURT: That is no. 22. -- That is so. (10)

MR JACOBS: Were there many pieces of paper? -- There were many pieces of paper.

I beg your pardon? -- There were many pieces of paper.

Can you give an estimation more or less how many? -- I fail to give an estimation of the number of people who were there because the hall was so full that it was impossible to do anything. Now with the pieces of paper coming from all angles inside the hall, coming forward to the chairman, even if I counted, even if I did not count it would be impossible to estimate the numbers but there were many of them. (20)

Now the first thing that Mr Ratsomo did after he received the pieces of paper you said were given to him? -- Yes.

What did he do then, the first thing? -- Well I saw him going to the table and lying them out, working on them, trying to put them all together. At that time Reverend McCamel gave some other people a chance to speak from the floor.

Is that now people making propositions or proposing something? -- No he was just saying is there anybody who still wants to say something, or anything.

I thought you said that all the speeches were finished?(30)

-- Speeches/...

-- Speeches by the speakers My Lord, I was particularly referring to those at the platform. Not scheduled speaker, by referring to speakers I was specifically referring to scheduled speakers.

So this was after the scheduled speakers? -- That is so. Now who were they? -- Among them were Mr Curtis Mkondo. Yes? -- Mr Shabangu.

Yes? -- Mrs Mosiyaleng. Those are those I remember.

I want the scheduled speakers. -- Yes amongst the scheduled speakers those are those that I remember. (10)

I beg your pardon? -- I remember the three.

Only three? -- That I remember.

And it was after they spoke, the three, that he asked for the resolutions? -- I cannot remember who the others were but amongst them these three, it was after those had spoken.

COURT: Is Mrs Mosiyaleng from Sebokeng or is she from outside? -- She is from Sebokeng.

In which area does she live? -- Evaton.

Is there also a Mr Mosiyaleng? -- Mr Mosiyaleng?

Yes. -- She is married, that is Mr and Mrs Mosiyaleng. (20)

Does her husband also figure in the VCA or was he not interested? -- Mrs Mosiyaleng was an area representative for Evaton.

She was? -- That is so.

And her husband? -- Her husband was not in the executive.

MR JACOBS: How many scheduled speakers were there? -- Well there were more than three but I cannot remember them, the two others or three others. I can remember these three very clearly.

So if I understood you correctly that then accused no. 22 was sorting out the pieces of paper on the table and in (30)

the/...

the meantime there were still speakers going on speaking? --
And singing also.

And singing? -- That is so.

What were they singing? -- They were singing songs.

Freedom songs? -- I do not know what do you mean by freedom songs but they were singing songs that would normally be sung at gatherings like those.

I beg your pardon? -- They were singing songs that would normally be sung at gatherings like those.

COURT: What do you understand under the term "Freedom songs"? -- Well all songs that relate to one's wish to be free one day, or have got a message to that effect. (10)

MR JACOBS: Would you say for an example singing about Mandela training the soldiers in the bush is a freedom song?

COURT: Tambo is training the soldiers in the bush.

MR JACOBS: Tambo.

COURT: Do not mix things up. -- My problem is I do not know if that song as it is does refer to freedom in itself so I would not know whether that would be categorised as a freedom song.

MR JACOBS: And singing about killing the boers would that (20)
be ...

COURT: Now let us just get clarity. So Tambo training soldiers in the bush you would not regard as a freedom song? -- Yes. I would regard it as a song ...

No we are talking about freedom songs. Yes?

MR JACOBS: And singing about killing the boers? -- Well I do not know that song.

Burning of the Supreme Court? -- That is also a song.

Is that a freedom song? -- That is a song that relates to what is happening. (30)

COURT: /....

COURT: Well the question is is it a freedom song? -- I do not see it as a freedom song.

COURT ADJOURNS FOR TEA. COURT RESUMES.

BAVUMILE HERBERT VILAKAZI: d.s.s.

FURTHER CROSS-EXAMINATION BY MR JACOBS: Mr Vilakazi I just want to go back for a moment to the question of this nomination and so because I said I would come back. Would you say that if ten people is necessary to nominate a candidate in a ward that that is democratic?

COURT: Do you mean if ten people are required for the (10) nomination, you can ten signatures required for the nomination of a candidate and the question is whether that is democratic?

MR JACOBS: Yes.

COURT: Do you understand the question? -- I do understand the question.

MR JACOBS: Would you say that is democratic? -- If ten people are required for a nomination, constitutionally I think such a nomination should indicate ten people out of a total membership or a population of a certain number. That will mean now the ten people would make up a percentage of a particular (20) number. But now I do not know in what context here now is it? Is it just ten people to nominate say for instance for a position say of an administrator of the Transvaal?

COURT: No I understand the question to be in the context of the Lekoa Town Council. If it is for example stipulated that ten people, a nomination by ten people is required before a person can be a candidate would that be a democratic or not a democratic election? -- Well the requirement will be seen to be democratic inasfar as the people who laid down that requirement see it. But if I did not have a say on the (30) constitution/....

constitution of the whole election process that has not been discussed with me and this is a process that has got to be dealt with on a structure that is supposed to represent me, and I am not even consulted in the constitution of such a structure I would not see it as democratic.

MR JACOBS: Just let us ...

COURT: Let me just get clarity on your views. Even if you have universal franchise in South Africa for each and every one, a totally non-racial constitution, it would in your view still be undemocratic if that change is brought about (10) without you being consulted? -- In a universal franchise my aspirations would be represented fully. And a person representing me will have debated that issue before it is put into law.

If it is not debated, that is the basis on which I put it to you? -- But if it is ...

You and your group have not been consulted but in the end result, say for example by Act of Parliament, there is a total change and it is exactly what you wanted you will still call it undemocratic because you were not consulted? Is that (20) what you are saying? -- I will be consulted because my views will be expressed by people I have put in office for the representative of ...

In which office? -- If there is universal franchise I would have participated in electing people into parliamentary office.

Yes, we are at loggerheads at the moment. I am putting it to you on the basis that the present situation in which you are not represented is changed by Act of Parliament where you are not represented. Anyway I will leave it to counsel.

MR JACOBS: Can you answer that question? -- Can I have (30) the/....

the question again?

What the Court asked you a few moments ago.

COURT: Well will you repeat the question because the witness did not understand my question. If by an Act of Parliament the situation at the moment you were given certain civil rights without you being consulted, and say for instance a fourth chamber is given to you and the vote is given to you, would you accept that or would you say it is not democratic? -- I think I am confused further now by the inclusion of another concept that I did not understand, of a fourth (10) chamber and the vote there. So it would be difficult for me to respond to that question.

If you were given the right to vote for people to go to parliament without say that the Blacks as a majority will take over the whole government but as one of the chambers in Parliament, like the Indians and Coloureds, would you say that you will reject that also as undemocratic? -- As I have said I have not had the opportunity to debate the question of the fourth chamber in Parliament, whether it would be democratic or not, to refer now to see a constitution being drawn by (20) that chamber as being democratic. I cannot be in the position to formulate a view at this juncture.

I just want to put it to you that according to the Black Local Government election regulations that candidates for a ward must be nominated by ten persons before his nomination is accepted. -- I agree fully that is how it stands in the Act.

And that your version here that a person can go and nominate himself, and only himself, is wrong. -- I am not saying it is wrong. I am merely saying that is undemocratic (30) because/....

because I did not get a chance to have a word to say to express my feeling with regard to the whole structure as it is.

Yes. And when you told the Court that one of the councillors told you that he nominated himself and he is the sole person who nominated him you were wrong? -- I did not say he nominated himself but I said he could not tell me who nominated himself. He only spoke about his putting in a deposit for elections.

Let us go back to, you said they were singing freedom (10) songs and, at least songs. Can you give us an example of a freedom song, do you know any freedom songs? -- A freedom song I would know is the one that would be sung in church that says on Jesus' chest I am free.

So it is only church songs that you regard as freedom songs? -- Not only church songs. I am saying that I regard a freedom song as a song with a message on a form of freedom. That is what I regard as a freedom song.

Now can you give the Court some examples of freedom songs that you the people in the Vaal sang? With a message of (20) freedom? -- Well there is a song that says, that I have heard that people say "Nkuli lekosi sithola" (?) We will get freedom, the message is there that people ...

COURT: Let us just spell it out because this has to be typed on record. Nkula nkosi? -- I-n-k-u-l-u-k-o s-i-z-o-i-t-h-o-l-a.

MR JACOBS: Now what does it mean? -- We will get freedom.

How? -- I do not know how.

Do you know the song? -- I have heard the song being sung, I do not know the song completely, I do not know the other words. I have heard it being repeated continuously. (30)

What/.....

What sort of freedom? -- It does not say what sort of freedom.

So what freedom are you referring to when you say there must be a message of freedom? What freedom? -- Freedom, I believe I will be talking in terms of what an individual person will perceive to be freedom. If I am talking in terms of freedom of mind I believe that I will be talking in terms of the mind that is not subject to disturbances at a point in time. If I am talking in terms of freedom of movement I am talking in terms of movement without particular restrictions. (10)

If I talk in terms of freedom of association I believe I am talking in terms of association by selves voluntarily without any inhibitions whatsoever. If I am talking in terms of freedom with Christ I am talking in terms of being with Christ without any disturbances on my being with Christ.

Now the message of freedom in the songs that you refer to as freedom songs which of the four do you regard then as the freedom songs that are sung in the community? -- Well there are a number of songs that can be sung in these categories, all of them. (20)

I am not asking you that can be sung, I am asking you that is sung in the communities, in the Vaal especially? -- Well like Inkulukoso sizoithola, it means we will gain freedom.

What freedom? -- Freedom that will have no restrictions on association, no restrictions on movement, no restrictions on speech and no restrictions on decision making, on matters affecting our lives. That is how I understand it.

So that being in control, being the government of the land? -- Sorry? Can I have the question repeated?

To sum it up that means to be the government of the land?/.... (30)

land? -- I do not get the question?

COURT: Get the question clear please?

MR JACOBS: Does it mean, to sum all that up in one word is that to be free in the sense of being the government of the land? -- Being free does not necessarily mean being the government. But being free means being governed by laws that enforce and encompass your whole freedom.

Any other songs? -- That do what?

COURT: Under the heading freedom songs? -- That I would know?

That you have heard of or know? -- I cannot think of (10) any other songs.

Have you ever heard the word, or the term "freedom song" before this case? -- The term?

Yes the term "freedom song"? -- I have heard ...

Have you heard it before this case started? -- That is so.

Where did you hear it? -- I have heard it, I have read about it in the Press. I have heard people talking about freedom songs.

And when this term was used did you ever think that (20) this term was used in a religious sense, like freedom in Christ? -- I understood it as I put it that to refer to a particular song referring to freedom.

Including the song you first mentioned about freedom in Christ? -- That is so.

MR JACOBS: Were any of these songs songs sung at that meeting of the 9th? -- No I do not remember any of them being sung at the meeting of the 9th.

Do you remember whether any freedom songs were sung? -- I do not remember any of the songs I referred to as freedom (30) songs/....

songs being sung at the meeting of the 9th.

COURT: Well the 9th being?

MR JACOBS: 9 October ...

COURT: At the meeting of 9 October 1983,

MR JACOBS: Can you tell us what songs were sung? -- There was Senzi Sizenina song at that meeting of the 9th.

Now can you tell us the wording of this song Sinzenina?
-- The wording?

Yes. -- It goes repeatedly Sinzenina, sinzenina, sinzenina.

Yes? And what else? -- Sinzenina sibula wanje, sinzenina(10) sibosho nje(?).

What does that mean? -- What have you done that we should be so killed in this way, what have you done that we should be in chains or jailed, or arrested.

Do you know it Sinzenina ama bushulu tshulu azinia, and Mayibuya e Africa? -- I have heard it being sung that way.

What does it mean.

COURT: Well let us just get the words again.

MR JACOBS: I will spell it, Sinzenina, you sing it eight times, is that correct? -- That is so. (20)

Then the following wording is a-m-a-b-h ...

COURT: Where are you reading from Mr Jacobs?

MR JACOBS: I am reading from EXHIBIT AAY9. Song four.

COURT: Yes go ahead. Sinzenina eight times, amabhula azizenya mayibuyi Africa(?). -- I have heard it being sung that way.

MR JACOBS: What is the meaning of that? -- Of which, should I repeat the lines again?

Of the second line, amabhulila, amabhula azizenya. -- It says "The Boers are dogs." That is what the line says. (30)

And/....

And the third line? Mayibuya e Africa? -- It says that "Africa come back".

Is that a freedom song? -- I would regard that as a freedom song.

What do you understand with the words "Let Africa return"? -- As I said in my evidence-in-chief what I understand by African returning I understand to be referring to life in Africa.

I beg your pardon, I could not hear? -- I was referring to the return of peaceful life in Africa. The kind of life(10) where people regard one another as brothers and sisters, the kind of life where people work the land to the benefit of all, the kind of life where the aged are respected and cared for and cared for in the way that befits them for their contributions that they have done to the land during the days when they were still strong enough to work the land and to build the communities, the kind of life where we see each other as brothers and sisters, not divided by creed, race or religion. That is my understand of Africa coming back.

What else was sung at that meeting of 9 October 1983? (20) -- Oh the workers song again, Hlanani basibenzi(?) was sung at that meeting.

Yes, what else? I mean while the people there were waiting for no. 22 to sort out the resolutions, what else was sung? -- But the songs I have been talking about I do not necessarily attribute to the period when no. 22 was still busy at ...

COURT: No we know, we are talking about the meeting. -- Yes at the meeting.

MR JACOBS: On that meeting, what else.

(30)

COURT:/....

COURT: At any stage in the meeting while you were there? -- At any stage those are the songs that were sung there. I cannot say exactly this song was sung during no. 22's being busy with the small pieces of paper.

MR JACOBS: So it is only Sinzenina and the workers song that you can remember? -- Yes, and also Mandela wethu somlandela. That is one of the songs that was sung there.

Mandela? -- Mandela Wethu somlandela.

What is the wording of that song? -- Mandela wethu siyomlandela. (10)

What does it mean? -- It means we will follow our Mandela.

Yes and what else, that is the first word, there is a whole song now. -- Noma siyabushwa siyomlandela(?)

Yes, and what does it mean? -- Even if we are in chains or even if we are arrested, even if we are imprisoned we will follow him.

Yes, and what else? -- Usually that stanza would just be repeated just like that throughout the song.

Is that a freedom song? -- It does not talk in terms of freedom but I would regard it as a freedom song because it (20) talks about the people's belief in Mr Nelson Mandela's deliberations in uniting the Black people of South Africa to protest against the laws that deprive them of political rights in the country of their birth and the laws that deprived the Black people of freedom of movement in the country of their birth, the laws that deprived the Black people of the opportunity to show out, or to use their talents in developing the country of their birth.

Now where did you get all this explanation that you have given to the Court now? Because the wording of the song (30) itself/...

itself has nothing to that effect? -- The question was what do I understand, is that a freedom song, and I explained that I regard it as a freedom song because of my understanding of the song.

Let us just pause for a moment there. Mandela is not protesting, is it correct? -- Sorry?

He is not only protesting against the laws of this country but he is actually a part of a revolution against this country, a violent revolution? -- I know Mr Mandela to be in prison at the moment. (10)

Well he is still against the country and in favour of the ANC, still regarded himself as a leader of the ANC and will not speak against violence in this country. -- That is so but here specifically I mentioned what the Black people say. These Black people are not necessarily people who are members of the ANC or people who associate with the ANC or people who are supporters of the ANC but they see Mandela as the leader of Black people because of what he speaks against, the laws that the Black people are burdened with and if there is such a person who speaks those the Black people will say he speaks (20) our language, although they will again come back and query anything that they may be against, that particular person. But inasfar as talking in terms of their rights is concerned they will not keep quiet about that and they would identify with that.

But my question was that Mandela is not actually only protesting against the laws of the country, he is part of a revolutionary organisation, the ANC, that is taking part in a violent revolution against the country? - That I have learned later in years, when I learned about his imprisonment. (30)

Is/....

Is that so or not? -- That is so according to the laws that he was incarcerated under.

And it is not only according to the laws that he is incarcerated under but it is because that is his belief, he is a member of the ANC? -- When Mandela was still the leader of the ANC in the country here, when the ANC was still a legal organisation in the country I was still very young. When it was inaugurated in 1912 I was not yet born and all I know about the ANC and what I have learned about Mr Nelson Mandela is what I have learned from people who were there on the scene (10) during those times. When Mr Mandela was jailed I had at least started school I believe. So I could not understand anything at that time. So what I would understand is what I would learn from people, elderly people around me and what they talk of Mr Mandela.

Yes. Mr Vilakazi did you know that Mr Mandela is a leader in the ANC? -- Yes.

And generally regarded as a leader in the ANC? -- Yes.

And did you know it before this court case started? -- That is so. (20)

How long did you know it? -- I cannot say how long.

Was it for a long period? -- That is so.

Even in the papers that you read yesterday or the day before yesterday into the Court, the ten papers that were given to you on Mandela, every one of them mentioned he is a leader of the ANC? -- That is so.

Yes, and the ANC stands for ...

COURT: The documents being referred to are EXHIBIT DA2, documents 1 to 8 and document 10. That makes it nine documents.

MR JACOBS: And according to that it is well known that (30)

he/....

he is of the ANC, and it is also a well known fact that the ANC is engaged in a violent revolution in this country against the government of this country? -- That is so.

So when you try to only refer to protest you did not bring out the whole picture? - - I am talking in terms of praise, praise is limited to his efforts in protest.

COURT: Now where is that set out, in the song? -- I am sorry?

Where is that limited, in the song? -- In the song itself it is not limited there but I am talking about what the Learned Advocate asked me, where did I learn all these things. (10) I am saying to him this is what elderly people around me told me, this is what I have learnt, this is what he is perceived to be by most of the Black people in the country here, he is regarded by the leader of the Black people in South Africa, even that people outside this country, people overseas, overseas countries. For his actions with the ANC if people wanted to recognise him as a leader of the ANC they recognise him as a leader of the ANC. If they want to be thankful for him for his protest against injustices here, even if they did not affiliate to the ANC themselves, even if they belonged to (20) opposing groups to the ANC themselves they have seen him as a Black man standing for the Black man's rights and being outspoken about it. They would regard him as a leader.

Well now while we are on this topic you used the phrase "according to the laws he was incarcerated under". Why was he in fact jailed? -- I know he was charged, that is why I was referring to the laws, I know he was charged under the laws and he was sent to jail after having been found guilty of having transgressed those laws.

Which laws, for doing what? -- For acts of violence. (30)

Now/...

Now should one laud a person who had been sent to jail for acts of violence, should one not qualify your praise and say I praise him for his stance but I am a non-violent man? -- That is in my explanation, that is why I am saying about him but in the song yes it does not say and that I can attribute only to have been probably the error as committed by the person who started with that song, that he did not make it clear. But because of the general belief around the leadership of Mandela that I know in my community I would attribute this song to the praise of Mandela for the good that he has (10) done for his people.

MR JACOBS: Yes and what other songs were sung? -- Well those are the three songs that I remember.

You cannot remember the others, but there were more songs sung at that meeting? -- Well it has been a long time because at these meetings most of the time you find that one song is repeated a number of times. So I cannot say that there were ten songs sung, or there were five songs each sung twice.

But you cannot dispute that there were more songs sung at that meeting? -- Definitely not. I would not dispute (20) that.

And if there is evidence to the effect that there were more songs sung at that meeting you cannot dispute that evidence? -- Unless I hear the songs and I think back because that would serve as a reminder to me, if I hear the song and I think back very clearly it can be the position to say whether I dispute it or not or whether I cannot dispute it or not.

Now while Mr Ratsomo, accused no. 22, was busy sorting out the papers with the resolutions on how many songs were sung? Let us just get clarity on that? -- Oh I cannot remember. (30)

How long did it take him to sort out the pieces of paper?
-- Well it was less than thirty minutes.

Less than thirty minues? -- Less than thirty minutes. I cannot say specifically what time or period did he take.

So if I understand you correctly it took him some time?
-- That is so, because as I said earlier there were a number of pamphlets that were there.

Just another point I want to find out from you here. You have seen the videos in this court, is that correct? -- I have.

Of the meetings, of the UDF meetings and the other (10) meetings? -- On the days that I have been in court, yes I have.

And how many videos did you see of the meetings of the UDF? -- Quite a number.

Do you agree they all form a certain pattern, more or less always the same, singing of songs, people speaking, shouting and all that stuff? -- Well I could, as I have been able to attend mass meetings where many people are unless a particular set programme is followed I cannot agree on the same pattern because the settings of the meetings have been different and the programmes have been quite different. So I (20) cannot say as a pattern unless I really get more clarity on the pattern part of it.

Well about these people moving around, marching around or people standing up singing, shouting out Amandla, the hand in the air, people start with the speech with Amandla and the audience answering of Awetu, or ending his speech with Amandla and the audience answering, then the singing going on between speeches, and even while speeches, underbreaking speeches to sing songs? That is more or less a pattern in all of, let me put it on most of the meetings we have seen here on video (30)

in/...

in court? -- Attending mass meetings anywhere, regardless of the organisation involved, I would expect the singing of songs, the shouting of slogans and the moving around, depending on the tune of the song, and I would not define it more as a pattern.

This meeting of 9 October 1983 did it also take place in more or less the same manner then? -- Well there was singing of songs and speeches, definitely people did not sing moving around because there was no space.

Yes, standing up to sing? -- Yes. (10)

Stamping their feet while they were standing? -- Well it depends on, stamping of feet, the clapping of hands it depends on how one feels, it is out of the feeling of a person. A person expresses himself or expresses his feelings with regard to the song by doing one thing or the other.

Mr Vilakazi I did not ask what the people's feelings were or how you see the feelings or so. I ask you what specifically happened on this meeting. Did they stand up and shout and clap their hands and do things like that, stamp their feet? -- Well not that I did take notice of there were people (20) who were stamping their feet.

Why do you not ... -- There were instance I have said that people would stand up in singing, people would shout slogans and people would clap hands to applaud, people would do a number of things when they are together.

Did it happen on this meeting, for the third time now? -- It did happen at this meeting.

Stamping their feet and singing and with their hands in the air with the fist and the Amandla sign? -- Persistently I (30)

Did/...

Did it happen on this meeting? -- Persistently I have indicated to His Lordship that the meeting was so full there was no space, that it would have been difficult for me to see anybody stamping their feet unless they were at the platform. At the platform I saw nobody stamp their feet.

Where were you situated in this meeting? Let us get it clear? -- Close to the door.

Yes? -- With the hall facing eastwards, the northern part of the hall and the wall about halfway in the hall.

Halfway in the hall. And did you face the platform? (10)
-- Yes on my side I had to face the platform as I was facing eastwards, standing against the wall on my side.

Were there people between you and the platform? -- There were.

Were they seated in chairs? -- Others standing.

And sitting? -- There were others sitting, there were others standing.

Yes. So if people stood up to sing you would have seen it? - That is it.

Did you see it? -- I did see. (20)

If people stood up and stamped their feet while singing you would have seen it? -- If they stamp their feet?

Yes. -- Those who were close to me I would have seen it.

And did you see it? -- I did not see it.

Did you hear it? -- Well if there is a sound and I do not see the movement, the source of the sound, I cannot just deduce that this is stamping of feet or this is hitting against the wall in tune.

COURT: Well was there a sound that sounded like the stamping of feet or the hitting of the wall? -- I cannot be clear (30)

about/....

about sounds, those are so minute details of that meeting that I would be lying if I can remember such details. Almost four years later.

MR JACOBS: Did some of the people singing raise their fists, or did all of them raise their fists while they were singing? -- The raising of the fists was raised by some of the people in the hall, not all of them.

And did they shout Amandla and Awetu with the raised fist? -- That did happen.

So this was a lively and rowdy sort of a meeting? -- I(10) do not understand lively as rowdy. So if it was lively I would say it was lively. If it was rowdy then I would have to go to the dictionary to understand the meaning of that word rowdy.

There were a lot of people making a lot of noise? -- Despite the numbers there was discipline at this meeting, there were elderly people at this meeting, there were responsible residents of Sebokeng at this meeting and these people would not have come to a meeting to discuss or to listen to speakers and make general noise. If noise is done through singing (20) then that would be musical noise that accompanies singing. If I understand the word "rowdy", subject to correction, rowdy would mean noise without basis. While the speakers are speaking somebody is doing this, somebody is doing that, somebody is shouting this that way, somebody is shouting the other thing. That is rowdy. There is no control, there is no discipline, there is no general discipline and good behaviour. That is not the impression of the meeting I attended on 9 October 1983.

So was it more or less like the same as the meetings (30)

we/....

we saw on the video? -- The setting was different.

Yes the setting is different, that we must appreciate. -- It was different groups meeting under different circumstances and I saw a number of different patterns through the meetings that I saw on the video. So it would be unfair for the advocate to commit me to a particular pattern, even if it means what we saw in the videos. In my own opinion there were a number of different patterns that we saw on the meetings conducted on these videos.

COURT: Apart from the pattern of the meeting, that is the (10) way in which the chairman set about organising the meeting, was the behaviour of the people in the meeting on the 9th of October 1983 approximately the same as the behaviour of the people at the UDF meetings we saw on the videos? -- Still I appeal to Your Lordship I cannot commit that, commit myself to saying that even if I have to approximate it because as I put it there were so many people there was no space for movement. You had to wait for somebody to be going outside. Then there would be some openings for you to squeeze in and to say that is approximately the same as a meeting held (20) by about 600 people, in a church hall like Regina Mundi in Soweto, as we have seen in one of the videos here, or at a meeting in Khotso House where you find that there are people who are seated and there is no movement, you see different types of patterns, three different distinct different types of meetings.

MR JACOBS: Was the action of the people, the behaviour of the people in the meeting, would it be more or less the same, approximately the same?

COURT: Well the witness is telling you that, let us take (30) the/....

the example of Regina Mundi, in Regina Mundi there was quite a lot of space and we saw quite a lot of movement. He says at this meeting they were packed like sardines and they could not move at all. That is one point of difference.

MR JACOBS: And was it more or less the same as the other meetings that were not so, that were full, where the halls were full? -- If we take the other example I made of a meeting at Khotso House, the difference would be that was a general mass meeting in the Vaal and the one at Khotso House I cannot remember what number it is, was a prayer meeting, but generally(10) those are the two meetings that could be compared.

Now did the people at these meetings stand for the whole time, did they sing for the whole time while accused no. 2 was busy or not, 22? -- No I cannot say for the whole time.

Yes I just want to get clarity on that, when were the other people speaking then if they were singing? -- I remember the chairman asked for a speaker, if any person wanted to speak.

Yes and then? -- And I cannot remember if that was during that time when there was a speaker and also another incident(20) that I remember happened where a local businessman wanted to speak there but because he was under the influence of liquor his wife came in to drag him out. Now I cannot specifically say that this was the period, during that period but I remember that something was happening during the time that Mr Ratsomo was busy with these pieces of paper trying to sort them out.

Well you told the Court that something happened during that period, you volunteered it yourself that there was singing? -- Yes but I am saying that I cannot commit myself to particular speakers. There was some speaking, there was (30)

some/....

some singing and there were some other incidents. Then these incidents I am saying that I cannot say came down to that particular time, or period, but only as there was nothing that the chairman was doing there, there was something going on in the hall, an informal speech or so, while accused no. 22 was busy.

Yes now let us carry on then. What happened then? -- Well when he was through he read out these resolutions and the chairman, the Reverend Lord McCamel interpreted those that were written in English into Southern Sotho. (10)

Now did he read out all the pieces of paper? -- Obviously he had sorted them out, as I saw it he would have two or three pieces of papers together as he had sorted them out there on the table. But these were from different people and he would say that this resolution it comes from so and so because the people had written their names there, and then there is another one that goes the same way, then there is another one that goes the same way. Depending on the number of resolutions that were similar.

My question is actually did he read it out from the (20) pieces of paper? - He read from the pieces of paper.

After he sorted them out, where there were three and he combined the three and he used one piece of paper for the three of them? -- No I have just explained now that he would read all three, he would read all three.

All three? -- That is so.

Three different pieces of paper? -- He would read and he would say that this is similar and explain the changes or read it out as it is and how it differs. Where they were exactly the same it would be, well I will not express my opinion (30)

but/....

but I believe he did not read them all where they were the same.

But you have specified that he read all the resolutions that were discussed there, he read them from the different pieces of paper. -- That is so.

Small pieces. And then he will name, every time he will name who the person was who ... -- Proposes such a resolution.

And when were there any discussions on the resolutions? -- These were held the following day, on the 10th.

There were no discussions in the meeting when he read them out? -- In the meeting after each resolution there would(10) be discussions.

Then there were discussions? -- Yes.

And each individual resolution was adopted then? -- That is so.

Now was there any, was there a resolution or a list of resolutions emanating from the Action Committee? -- There were some resolutions that were suggested, that were proposed, that had come from the group that was calling itself the Action Committee, the group that had facilitated the coming into being of that meeting of the 27th. (20)

Was that on the preprepared list or form? -- I cannot say it was preprepared because I heard of them for the first time during the time of the resolutions when these were mentioned by Mr Ratsomo.

Can you elaborate on that ...

COURT: Just a moment, when what was mentioned, when the resolutions were mentioned or when the Action Committee was mentioned? -- The Action Committee resolutions were mentioned after all the other resolutions had been read out.

Could I just get clarity now. I understood you to (30)
say/....

say that a resolution or a number of resolutions which were similar, that is a resolution on a point, was read out, debated and voted upon? -- That is so.

Is that correct? -- That is so.

And then there, so they went on down the line. Did they eventually get to the resolutions of the action committee? -- Yes.

And was it then stated these are the resolutions of the action committee? -- Yes that was the resolutions proposed by the action committee. But some of them had already been (10) voted upon as they were similar to those that were proposed from the floor.

MR JACOBS: And that resolutions of the action committee, were they read out by accused no. 22? -- He read out all the resolutions, including those ...

Mr Vilakazi I am just asking you now about the resolutions of the action committee. Did he have those resolutions that he read them out to the audience? -- That is so.

So was there only one piece of paper with all the resolutions from the action committee? -- Well I cannot say if (20) there was one piece of paper for them all.

But Mr ... -- At that time he had a whole pile back with him in one hand, the pile of resolutions he had read. Then he mentioned these that were the proposed resolutions by the action committee. So I could not see from where I was standing whether there was a separate piece of paper or they were in different papers themselves.

No but did he not put down the one that has been dealt with and then go on to the next? -- As I say he handled it whilst he had the other pile of resolutions with him. (30)

Yes/....

Yes and how many resolutions did he read out emanating from the action committee? -- I cannot remember the exact number but there could not have been more than five because as I say this one we have already dealt with, it was this way, we have just mentioned it and he would identify it as the one that had been voted on from the floor.

Well he must have told the audience that this one, which one was similar to the one that has already been voted on? -- That is so.

So how many did he mention in that way? -- I cannot (10) remember the details of the particular resolutions or whether this particular one was from the action committee or the one from the floor.

And how many were not part of those already accepted from the audience, how many did he read out? -- Like I said he had about five resolutions, not more than five resolutions, but I cannot remember exactly how many were similar to those already voted upon on the floor and how many were still remaining. To me they were all resolutions. I did not attach any significance to say I will remember this, that this came (20) from this end or this came from that end.

Did they discuss also the resolutions from the action committee? -- They were discussed.

NOw tell us now which of them were read out and discussed? -- I will not remember those.

Why not? -- I will not remember those because at that time, like I said, I was not interested in which side the resolutions came from. As I had known it that it was mentioned that the action committee had assisted towards the calling of this mass meeting, the holding of this mass meeting. So when these (30) resolutions/...

resolutions were read, all of them, and where accepted by the house at all, I regarded them as the resolutions of that meeting. There was nothing at that time that called upon me to identify a particular resolution.

Well Mr Vilakazi you told the Court that they discussed them and there must have been some people speaking about them.

I want to know who of the action committee spoke about their own resolutions, who ... -- None other than the person at the platform who was reading the resolutions, read out these resolutions. (10)

COURT: Only no. 22? -- No. 22 only mentioned these resolutions. And they were voted along.

MR JACOBS: What discussions did follow out of the reading of those resolutions? -- The resolution part, as I have said, I will repeat it once more, I will repeat it that the resolutions part after every resolution this resolution was discussed and voted upon. I am not in the position to be, to separate those of the action committee from those that did not emanate from the action committee at the moment because I did not attach any significant importance to whether they were from the (20) action committee or whether they were from the audience. As I knew the action committee to have been there, I think it had been mentioned that the action committee had assisted into the launching of this mass meeting and the resolutions were all adopted. To me they were resolutions all adopted at that mass meeting.

Mr Vilakazi is it not then correct that there were no discussions? Otherwise you would have remembered some of them discussing it, some members of the action committee? -- For that matter I did not know who some of the members of the (30) action/....

action committee were. I only knew Edith Lethlake as a member of the action committee.

You did not know that ... -- So I would not know if people discussed it that this person oh he is a member of the action committee and he is discussing this. There was nothing pointing me to be that inquisitive to know who is discussing what and for what reason. The mere fact that we were coming together with problems and there was talk and there was a resolution into launching civic association to deal with the problems of the people to me was enough and there was nothing pointing me to look into the individual activities of people in the audience other than the people in the platform, the people who were in public, the people who everybody saw. And I cannot guarantee also that for the rest of the meeting I did not wink or look outside the window, I kept my stance on the platform. So my attention cannot be said to have been at even 70% at its peak throughout the whole meeting, and again being that I only knew Miss Edith Lethlake as a member of the action committee it would have been difficult for me, even if I saw a neighbour of mine taking part in the discussions, if I did not know him to be a member of the action committee and if I did not attach his being a member of the action committee to anything, to be of any importance I do not think it would have been easy for me to remember it again. (10) (20)

But you are positive of one thing and that is that Mr Ratsomo, accused no. 22, read out the resolutions from the action committee? Five and more, five new ones and others that were similar to resolutions already adopted? Is that your evidence? -- That is not what I said. I said all in all from the action committee it could not have been more than five (30) resolutions/....

resolutions and amongst these were those that had already been adopted.

But he mentioned it that he got a list of resolutions from the action committee? -- He said the action committee that had done this also had these proposals for resolutions and he read them out but he said okay this one we have already dealt with, and he read it out still. That is how it happened. Those that were not read out initially were debated on like any other of the resolutions that were debated on there.

Now if I understood your evidence correctly up to this (10) point the only thing that Mr Ratsomo, accused no. 22, did was to sort out these different papers with the resolutions on them?

COURT: Well that is not what he said. He read out the resolutions out as well.

MR JACOBS: Except for reading them out, but the preparation before reading them out? -- I do not see how he could have done it with a number of pieces of paper coming to the table and all having pieces of resolutions. I think if I have got to say my opinion here now I would have seen it as a good (20) thing to have done, not necessarily to show expertise but efficiency. It is a matter of efficiency this time, that he had to sort out these resolutions so that those that are similar could go together but he made sure that he read all the resolutions because he mentioned that "I have these others which are all similar", but for the people to adopt them they were the ones to adopt them, he read them out. I would see it as efficiency there.

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Did he write any of the resolutions himself or did he classify them on a piece of paper or on anything like that? (30)

-- That/....

-- That I did not see.

Did you see him writing at all? -- Writing at all?

Yes. -- I cannot remember who was seated there next to him transcribing these, all these resolutions after we had taken up the elections of people into office. I think it could have been the person who was elected the secretary, but I cannot remember who was with him at the table when these were written out now, compiled into one document.

I did not ask you that Mr Vilakazi. I asked you did you see him writing at that table at all? -- I cannot remember (10) seeing him.

YOU cannot remember. I want to refer you to your evidence-in-chief, I would like to refer you in Volume 159, I will start at page 7791 of the typed record of your evidence.

COURT: 7791.

MR JACOBS: Yes and it will carry on to 92. The question was put to you by Mr Bizos:

"Did you see Mr Thabiso Ratsomo, accused no. 22, before His Lordship, at that meeting? -- Yes I saw

Mr Ratsomo seated on the platform next to the chairman." (20)

Is that correct? -- That is so.

The next question was:

"Was he doing anything in particular there?"

Do you remember that question? -- That is so.

And your answer:

"He was busy with some writings. The Chairman had announced the pieces of paper would be passed around to the audience so that they can write down their suggestions for resolutions. These were to be passed back to the care of Mr Thabiso Ratsomo." (30)

Do/....

Do you agree that that is your evidence? -- That is my evidence.

So now you say you did not see him writing anything and ... -- No with full respect the Advocate asked me particularly with regard to writing out of the resolutions, at the time of the resolutions or the resolutions themselves. I am referring now to this particular time during the meeting, the time of the resolutions. Not at the time when I entered the hall. Then the question came that at the time when I entered the hall. (10)

MR BIZOS: Without wishing to interfere could the, could I ask because I think the witness will deal with it rather than my dealing with it but the actual words be placed before the witness.

COURT: Yes.

MR BIZOS: Because I really think that My Learned Friend ...

COURT: We are not busy with that at the moment. At the moment we are busy with whether he said that no. 21 wrote resolutions on that day or whether he wrote anything at all that day. (20)

MR BIZOS: Yes but My Lord I think it is a language difficulty which has really led to this suggested ...

COURT: Yes we will get to that but at the moment we are still debating another point.

MR BIZOS: As Your Lordship pleases.

MR JACOBS: Mr Vilakazi I would like to put it to you that I asked you a few minutes ago if you saw accused no. 22 writing anything at all at that meeting that day. Can you remember that question? -- My understanding of the question was with regard to the time of the resolution, writing anything at (30)

all./....

all. I did not understand it to be referring to the whole meeting as such. I would say to answer to that question I did see him busy with some writings during the course of the meeting earlier.

Mr Vilakazi what did you not understand in my question? Is there anything that you could not understand about the words "did he write anything at all at the meeting"? What is understandable in that question? -- What is understandable is the fact that we were dealing with the period, the time of the resolutions. I must say that this is now the first (10) time that I do not get into this difficulty of understanding because it happened earlier on again when we were dealing in terms of songs. I had to ask now, His Worship had to clarify the fact that we are back at the meeting of the 27th. At that time I thought we were dealing with songs in general. This is almost a similar situation here now where I thought we were referring to the time of the resolutions only to find that the question is based on the entire meeting. So I would say that I did not understand the question well, that is why I responded that I did not see him. Seeing that it referred to the entire (20) meeting at all I would say at the beginning of the meeting when I entered the hall, with Mr Ratsomo at the table there, apart from earlier any other thing that he was doing I saw him writing.

Did you listen to my question?

MR BIZOS: My Lord I am sorry, the passage is put as a contradiction

COURT: We are not busy with the passage. The question was, it may well be that the witness did not understand the question clearly but the question was first of all "Did you (30) see/....

see no. 22 writing resolutions on paper" and that the answer was "I did not". Then the question was "Can you remember seeing no. 22 writing at all that day" and that is what we are busy with.

MR BIZOS: My Lord but, with the greatest respect, if Your Lordship would just bear with me for a moment. That is not all that My Learned Friend put. My Learned Friend read out a passage from the bottom of page 7791 to 7792 and then suggested to the witness, certainly by clear implication, that there has been a change in his evidence. And that is not correct. (10) And that is what I stand up to object to.

COURT: Well before you finish your objection let me ask the witness a question. You just now told me that you did see him with some writings earlier when you entered the hall? -- That is so.

What do you mean by using the word "writings"? -- I meant the process of writing, that he was busy writing, apart from other things that he was doing. Say like seeing him moving out of the hall, at the stage there, tried to find his way out and coming back, and seated there doing nothing. I also (20) saw him doing the writing.

So when you say "I see him with some writings" you mean he was busy writing? -- That is so.

Yes, thank you. Yes Mr Bizos?

MR BIZOS: Well My Lord in view of that I withdraw the objection. I do not know what the witness originally meant but it certainly is not the meaning of, the ordinary meaning of the word "writings" and the objection was well found, with respect, before Your Lordship asked the witness the subsequent questions. It is clear from the manner in which the question (30) was/....

was put by the prosecutor to the witness that it was being suggested to him that he contradicted himself. It very often happens that when witnesses are confronted with a piece of the record and they are, it is suggested to them that they have contradicted themselves whereas in truth and in fact they have not that they become confused.

COURT: Mr Bizos in view of the fact that you withdraw your objection is it necessary to give me a speech?

MR BIZOS: No My Lord.

COURT: Well then let us go on with the case. (10)

MR BIZOS: No My Lord the reason why I raised it and the reason why I am still on my feet is that I tried to object before that, before Your Lordship put that question, in order to draw the attention, I did not want to suggest to the witness any meaning and this is why I did not articulate my objection but suggested that the witness should be given a copy of the record in order that he may see the precise words that he had used, and when I suggested the language difficulty I did not mean the language difficulty of the witness. And that is why I find myself that if a question, if we (20) start off with a question on a wrong basis we perpetuate that.

COURT: In fact it appears, with hindsight, that the question was not on the wrong basis. But I was not going to let this slip by. That is why I asked this pertinent question on what the witness means by using the word "writings".

MR BIZOS: Well I submit that in the context in which, if he had the record before him in the context in which he used the word originally did not mean that he was busy writing.

COURT: Very well, next question?

MR JACOBS: I will read further to you. The question was: (30)

"Was/...."

"Was there any indication at the meeting as to whether or not there were resolutions which the people that had called the meeting had prepared or not? Were there any prepared resolutions as far as you could see?"

Was that question put to you? -- It was put to me.

What do you understand under that question? -- By that question I understood it to mean resolutions that were long prepared and going to be adopted without discussions, without debate, without anything as resolutions. I did not understand it to refer to proposed resolutions. (10)

Who are the people that had called the meeting? Who are the people that had called the meeting? What do you understand out of that, under that? -- Under that I understand it who are the convenors of the meeting.

And who were they? -- At my going to the meeting the poster that I saw did not mention who was the convenor of the meeting if I remember quite well. I learned there when I arrived that it was the Vaal Action Committee, and also through my discussions earlier on with Edith Lethlake about this meeting she did not specifically say that she was the one or it was (20) the Vaal Action Committee that had convened that meeting.

But you knew that the meeting had been convened by the Vaal Action Committee? -- I knew later.

And you knew it when you stood in the witness box there yesterday or the day before? -- That was later, yes.

You knew it? -- Yes I knew it.

So when this question was put to you you knew it referred to the Vaal Action Committee? As the people who had convened that meeting? -- As I got to know later.

Yes, when you stood here in court and when this question (30) was/.....

was posed to you at that moment, not later, on that moment you already knew that the people who convened this meeting, it was the Vaal Action Committee? -- I do not dispute that.

So you knew it? -- As I stood here I knew it.

And yesterday or when this question was put to you you knew it? -- As I was in the box yes I knew it.

And the question then, and you understood the question then that it was asked of you by Mr Bizos whether, if we can write around this question a little bit, that it was the question referring to the Vaal Action Committee having pre- (10) pared or not resolutions, is that correct? Did you understand it like that? -- Can you repeat your question sir?

The question, if you, I will read the question again to you. -- Please.

"Was there any indication at the meeting as to whether or not there were resolutions which the people that had called the meeting had prepared or not. Were there any prepared resolutions as far as you could see."

-- I remember that question.

And do you remember your answer? -- I do not remember (20) my answer yesterday.

And what is the answer to the question? -- Well the answer to the question was after the resolutions had been read Mr Ratsomo mentioned these resolutions, these other resolutions, but the preprepared resolutions the answer is no.

Would you say that the resolutions that were read out emanating from the Action Committee, the five of them that you referred to here that was on the list, was not preprepared resolutions emanating on the list? -- I would say those are proposals. (30)

So/....

So now they are proposals and not resolutions? -- I would say they are proposals and not preprepared resolutions because they had not been adopted then. I only consider resolutions to be something that has been adopted as a resolution. Before it has been adopted it is not been resolved on.

Just, I will come back to that now in a minute. I will just read your answer to you:

"No the resolutions that I heard were those that were read from the pieces of paper".

-- That is so. (10)

So you make a clear distinction here, those that are read from the pieces of paper, they are resolutions before they were adopted? -- No.

But those emanating from the committee were not resolutions, they were only proposals? -- Well those are still proposals but at the end of the meeting they became resolutions, that is why I was referring to them as resolutions emanating out of pieces of papers. Probably the question could have been any proposals. But because the reference was to resolutions emanating out of pieces of papers I was looking at it as (20) at the position when they were already adopted because they had already emanated out of the pieces of papers.

YOU see Mr Vilakazi if you go to your next answer the answer you are giving the Court now is totally incorrect.

"And who read them out? -- These were read out by Mr Ratsomo in English. Most of them were written in English and the chairman, the Reverend Lord Eldorado McCamel, interpreted these resolutions into South Sotho."

So even now before they were discussed, even before they were adopted, while they were read out and while they were (30)

interpreted/...

interpreted you called them, yourself called them as resolutions. -- But the problem is that I did not qualify that they were proposals to resolutions.

So I put it to you that that is a quite and a clear difference between your evidence-in-chief and your evidence here in court? -- Well my evidence is now under cross-examination I am clarifying my evidence-in-chief, that is how I see it. I do not see any difference between my evidence-in-chief and this evidence I am giving now because I am clarifying what I said in-chief. (10)

And what you told the Court in your evidence-in-chief was not the truth? -- That was the truth.

Oh that was the truth. -- I am clarifying the truth.

And what is furthermore that in your evidence here from the beginning you yourself referred to the pieces of paper handed up to Mr McCamel as resolutions. You never make a distinction at all. What do you say to that? -- Well I am now clarifying the distinction part.

Only now after I have shown to you that there is a difference in your evidence-in-chief and your evidence here (20) in court? -- Not necessarily because I thought the question was for clarity, not the question to discredit my evidence. That is why I am saying that I was clarifying the evidence that I gave in court yesterday.

When the State witnesses gave evidence did you inform your advocate on this aspect of the resolutions adopted at that meeting? -- When who gave evidence?

Accused no, witness no. IC8 when he gave evidence certain facts were put to him on the resolutions. Do you remember? -- I know a number of things were put to him in his evidence. (30)

Did/...

Did you, while he was giving evidence, and after he gave evidence did you have a consultation with your advocate, did he speak to you and try to find out from you what the facts were? -- Well we consulted all the accused who were present at that meeting and during the evidence, while it was still being led, we also gave instructions.

I would like to read to you what the evidence is on that on page 902, Volume 20. That is the evidence in camera of IC8. I will read, it starts in the middle:

"MR BIZOS: (And that is what Mr Bizos said to the (10) Court) Now let me just put to you that the answer to His Lordship's question is as a whole that the Action Committee that had called the meeting had certain resolutions and in addition people from the floor responded by sending up pieces of paper to the chairman?"

Surely this must have been coming from you people, the defence, especially you as the main witness on this important meeting? -- Well I would not respond to the suggestion that I am the main witness to this meeting but as I have said earlier that we did give our defence counsel instructions on this meeting. (20)

And I put it to you that you told Mr Bizos that it was resolutions, that he mentioned it here, resolutions and not proposals? -- Well I think it depends on how one is used to speaking and saying these words.

Did you tell him that it was resolutions emanating from the Action Committee that had called the meeting? -- That instruction came from the defence, from the accused people.

Well you are the accused? -- I am one of the accused people.

Did you tell Mr Bizos that? -- I would not know who specifically gave the instructions with that particular (30)

part./...

part.

Well you were present in court? -- Yes but I gave so many instructions and my colleagues gave so many instructions that I would not know that the instructions that reached Mr Bizos was my instruction or did I respond that day or did I just discuss it with my co-accused there in the dock and allowed somebody to give that instruction.

Would you say this part is incorrect? That the Action Committee that had called the meeting had certain resolutions and in addition people from the floor responded by sending (10) up pieces of paper to the chairman? Is that putting it correctly? -- I am saying it is correct that I had said (10) also in my evidence here that there were proposals for resolutions from the Action Committee but I would not place those first because at the meeting they were not put first but they came later.

Mr Vilakazi... -- So I would not say the people from the floor added to those of the Action Committee because what happened is as I recall it the way I have put it here.

Mr Vilakazi do you say that the way it is put here, (20) that the Action Committee that had called the meeting had certain resolutions and in addition people from the floor responded by sending up pieces of paper to the chair? Is it wrongly put here to the witness? -- In comparison to my evidence, yes that is wrongly put.

So you were present in the court when this evidence was given? Or this was put to the witness? -- Yes, and Your Lordship must bear with us because of the hardships and the problems that, the general problems that we were faced up with with regard to giving instructions in court here or at (30)

any/....

any time to our advocates. For instance when that evidence came here and the advocate had to put it to the witness it might have been from me, that my wording might not be as everybody would have agreed to it at that point in time. Then if one may send a note to correct it then if it is not corrected at that point I cannot really be asked later that why I did not correct it, otherwise it is a matter of asking for an adjournment after every instruction has been given so that we can go downstairs and consult with our lawyers for every question that comes up. (10)

Now let us carry on now after you have finished with that. You were present, you said you were present in court when this wrong statement was put to the witness? Is that correct? -- I was present in court that day.

And did you hear the wrongness of the statement put to the witness or explained to the Court here and asked on which, on which he was asked to answer? -- I may not have reacted to it then because I would, I felt that the general idea that was put there was correct, now that point that was called that there were two sets of proposals for resolutions. Now (20) whether that was put before or after it was up to me to come here and correct that. If that could not be corrected.

So you expect a witness standing there to answer to wrong statements being put to him? And you can only afterwards come and say anything you like? Is that what you are telling the Court now? -- Well what was ...

MR BIZOS: My Lord I must again, with the greatest respect, in substance, that in substance what the witness has said in the witness box is what was said. The only difference is the order and I do not know, I do not know that the question (30)

as/...

as it was put actually makes any definite statement in relation to order. May I refer Your Lordship as to how this question arose during the cross-examination, that it was not part of the witness' evidence-in-chief but in answer to, well it was in-chief but in answer to Your Lordship on the question of resolutions, whether the resolutions were really, and that would have been the matter that Your Lordship, I would submit, was interested in, whether resolutions really, did they come from the floor or were they steamrolled from the top by the Action Committee and I put to the witness that both had (10) happened, that they were both from the Action Committee and from the floor and that was what was important to be put to the witness. To elevate that into a contradiction, to cross-examine on it for half an hour when I did not purport in the question to set out the order, the mere fact that I joined the two suggestions with an "and" does not mean that the one happened before the other, and in fact there is no contradiction in our respectful submission.

MNR JACOBS: Edele My Geleerde Vriend het seker in gedagte gehou wat presies die getuie nou nou hier gesê het. n (20) oomblik terug he hy self erken hierdie feit soos hy hier gestel is "That the action Committee that had called the meeting had certain resolutions and in addition people from the floor responded by sending up pieces of paper to the chairman" het hy self erken is nie, in werklikheid is nie die waarheid nie. Dit is sy eie erkenning en ek stel sy eie erkenning aan hom.

HOF: Ja, laat ons die vraag weer kry? Repeat the question please?

MR JACOBS: So while you were sitting in court here (30)
listening/....

listening in court here to the evidence you did not do anything to stop a wrong statement being put to a witness and you expect him to answer on a wrong statement in this court?

COURT: Well what does that mean?

MR JACOBS: The wrong statement that was put to the witness here that you yourself admit is incorrect.

COURT: You mean as far as the order is concerned?

MR JACOBS: Yes, the Action Committee that had called the meeting had certain resolutions and in addition people from the floor responded by sending up pieces of paper to the (10) chairman? -- At that time I did not see it much of a wrong statement in the sense that I saw it as meaning that there were proposals for resolutions from two sources. The first source being the group that was the Action Committee and the other being the audience, and if put that way I saw it merely to indicate that there were resolutions. The resolutions that were taken emanated from the proposals from these two groups. It is only now that when the advocate goes into that matter that I need to clarify it.

You see there is another meaning in this piece of (20) statement and I am going to give you a chance to explain it. I will read it to you again:

"That the Action Committee that had called the meeting and had certain resolutions and in addition people from the floor responded to the resolutions (as it stood here - stands here)....

They responded to the resolutions by sending up pieces of paper to the chairman.

MR BIZOS: My Lord the word "resolutions" is not in the record.

COURT: Could I have a record please. (30)

MR JACOBS:/.....

MR JACOBS: I read it that, what I mean is that the response is to the resolutions.

COURT: Well the question asked by myself is how does this calling for resolutions work in these meetings? Does the chairman call for resolutions on the basis that anybody can get up and propose a resolution which is then seconded and debated or is there normally one person who has a list of resolutions which he reads out and which the meeting then approves? The answer then was to my question as to the mechanics of the thing of calling for resolutions. Then the witness (10) said what happened in his presence, the witness asked from the audience that the audience must now give resolutions to whatever was discussed there. Then he left the meeting. Then Mr Bizos continued:

"Now let me just put to you what the answer to His Lordship's question is as a whole, that the Action Committee that had called the meeting had certain resolutions and in addition people from the floor responded by sending up pieces of paper to the chairman."

That is responded to the Chairman's call for resolutions. (20)

Now what is your difficulty?

MR JACOBS: Edele ek het dit ook gestel as n ander moontlikheid en waarop ...

COURT: Well I do not think you can give it a different meaning.

MR JACOBS: On that meeting, which resolution was discussed first? Which was the first resolution to be discussed, or proposal then as you said? -- If I remember quite well the first resolution was for the formation of a civic association.

And was that a proposal that became a resolution (30)

later/...

later on and is it correct? -- That is so.

So let us call it for convenience sake then a resolution, that it was adopted. Now was it one of the resolutions that was emanating from one person or from a lot of persons? -- Each one of them emanated from one person, but this one, oh you mean with regard to when they read out there, when they were mentioned?

When they were proposed and read out and ... -- Yes there were a number of pieces of paper to that regard. But the others would say just a community organisation, not really(10) specify that it should be a civic association or a civic organisation and all that.

COURT: We have two sources of proposals. The one source is unspecified, from the floor, that is from the audience. The other source is from the members of the Action Committee? -- Yes.

Now was this one of the proposals from the Action Committee? -- From both sides.

And from the floor? -- That is so.

MR JACOBS: And you said when the proposals were read out (20) and interpreted Mr McCamel also read out from the person's name who proposed that resolution? -- That is so.

And were there different people proposing the same resolution from the floor? -- That is so.

Can you remember their names? Their names mentioned by Mr McCamel? -- For that civic association?

I beg your pardon? -- For that one?

The first one? -- Yes, for that one particularly I remember there was a note from Miss Edith Lethlake and there was a note from Mr Umfani Radebe. These are the two people (30)

I/....

I remember, because I knew them.

Who is this Mr Umfana Radebe? -- That is the man I had nominated to be area representative for my area.

COURT: Could we just get it, is it Mfana or Umfana? -- Umfana.

And his surname is? -- Actually it is Umfanelo, now it is cut short to Umfana.

Yes well we will stick to Umfana. And his surname is? -- R-a-d-e-b-e.

Yes? These were different proposals, they were not the same proposal proposed by the same people on the same piece(10) of paper? -- It is one, it is similar proposals from different people on different pieces of paper.

MR JACOBS: So for, if I understand your evidence now correctly there are three, call it persons or entities, first Edith, then Mr Radebe and then the Action committee also proposed that? -- No I said there were a number of pieces for this but those two I remember specifically because the names are of people I knew.

Oh so there were more from the floor, there were more? -- That is it yes. (20)

From the action committee there was also one proposal for that? -- To that effect, yes.

That is a little bit ununderstandable for me because Miss Lethlake, Edith Lethlake, she was a member of the Action Committee and knew that there were proposals or resolutions from the Action Committee for the same purpose. Why would she duplicate it? -- Why would she duplicate it I would not account for. I was not part of the Action Committee, I do not know what the plans were if there were plans. Why she wrote it at the meeting of the 9th I do not know. (30)

COURT ADJOURNS UNTIL 14h00.

COURT RESUMES AT 14h00.

BAVUMILE HERBERT VILAKAZI: d.s.s.

FURTHER CROSS-EXAMINATION BY MR JACOBS: Mr Vilakazi were there any oral proposals that were adopted as resolutions?

COURT: The question is were there any oral proposals from the floor that were eventually adopted as resolutions?

MR JACOBS: That is on 9 October, at that same meeting? -- I cannot remember specific oral proposals. But I remember that some resolutions were adopted after they had been discussed. You find that they were now adopted in a different form (10) from what they were before they were discussed.

Can you remember whether that happened after the proposal was read out in a certain form and then discussed and then adopted in another form? Or can you remember it being proposed from the floor, say ...

COURT: Now what is proposed from the floor, the original proposal or the amendment of the proposal?

MR JACOBS: The original proposal.

ASSESSOR (MR KRÜGEL): Are you referring to proposals were amended, on which amendments were moved? (20)

MR JACOBS: What I mean by proposal is because he said all, as I understood his evidence all of them were proposals at the stage when they were read out first before adoption? -- That is so.

And when they were read out and interpreted by Mr McCamel were they then altered and were they then approved in a different way from the original that was read out to the floor? -- What I mean by a different form I do not necessarily mean that it coming up being a different, the idea being totally different from what it was previously but I mean (30)

that/...

that the way it has been proposed you find that at times it is not clear and it is debated, then you find that there are some minor changes to probably the wording. If we take, if we speak in terms of a proposal for a community organisation then you find that some people would say now, debate it and say okay let us call it a civic association instead of a community organisation which to me it would mean more or less the same thing. It is just that it came up as a proposal being a community organisation then this is now clarified that this will be a civic association. (10)

So that was one kind of proposal. Now I want to know were there any proposals that were put to the meeting orally as a whole, not read out from the pieces of paper? -- I cannot remember the one that was put out orally as a whole.

You already told the Court that you cannot remember the discussion in respect of each of the, or any of the proposals that were adopted. -- Yes I cannot remember what each objection came out to be and then what was the response there and what came third and what came last. I am trying to give the Court a picture of what I remember having taken place on (20) that meeting.

I would like you to have a look at EXHIBIT AN13, to have it before you.

COURT: AN13?

MR JACOBS: 13. Now I will read from "We hereby resolve to", from the second, we say we will take that as a second and subsequent resolutions:

"To demand decent housing and security for all".

Have you got it? -- I am with you.

COURT: Where is the witness reading now Mr Jacobs? (30)

MR JACOBS: /...

MR JACOBS: I see he is reading through the whole thing now.

COURT: Very well. -- Should I read from there?

MR JACOBS: No just can you identify this document? Is this a document of the resolutions adopted at that meeting?

COURT: Have you seen this document before? -- Yes I can identify this document.

What is it? -- This is a document that was, that I saw for the first time at one of the meetings of the Vaal Civic Association's executive meetings.

MR JACOBS: Can you remember which meeting it was? -- One of (10) the meetings after the 9th.

How long after the 9th? -- It could have been about a week after the 9th, I cannot remember well.

Now the way I want you to read then,

"We hereby resolve to demand decent housing and security for all"

Do you agree that is more or less similar words to the provision of the Freedom Charter? -- With the provisions of the Freedom Charter?

Yes one of the provisions of the Freedom Charter (20) relating to housing and security for all. -- If I remember well the structuring of the sentence is not exactly the same.

But it is similar, not the same but similar? -- That is so.

Can you remember on that meeting of the 9th did they discuss the requirement that a demand is put here? -- The requirement and the demand?

The demand, "we resolve hereby to demand". Was the demand part of this resolution discussed on that meeting? -- Yes when this, the document was presented to the meeting of (30) the/....

the executive it was found to be a reflection of the resolutions taken on the 9th.

I am speaking about the 9th. On the 9th when they discussed it can you remember whether there was any discussion on the demand part of this resolution? -- That is so.

Can you remember what was discussed on this? -- It was discussed that we should demand housing and security with these houses. Not allocations but every time you remain in secure in the house because if illness or death strikes then you become homeless, that is what is referred to by (10) security, that is with housing.

Did you discuss from whom you demand this? At that meeting of 9 October? -- Well this demand I directed to the government as housing is provided by the government.

Did you discuss it ... -- For the people of South Africa. ... on the meeting, that is what I asked?

COURT: Can you just repeat the question, I missed your last part?

MR JACOBS: Did you discuss that on the meeting from whom you demand decent housing, on that particular meeting? -- Yes (20) that was what was discussed. People were saying the government should provide us with housing and we must be secured in our houses.

And did you discuss on that meeting who will pay for the housing? -- Who would pay for the housing?

Yes did you discuss it on that meeting? -- No what was discussed was the demand for housing.

The second one is also a demand, the demand for low rentals that you can afford. From whom did you demand the low rentals? -- From ... (30)

On/....

On that meeting? -- From those who provide housing, that is the government.

From the government. They must lower the rentals. Now what do the rentals include in this case? -- What does rentals include?

Yes. -- Every payment that is made towards the house, that one pays on a monthly basis as long as one stays in that house.

Does it also include the service charges? -- That is so.

Were there any discussions on what will be an acceptable rent, by you people? -- No. What was discussed was put as (10) the rent that could be affordable to everybody.

Did you discuss what will be an acceptable rent that people can, affordable, that people can afford? -- The amount was not discussed.

Did you discuss whether the rents must be lowered, the existing rents? -- What was discussed, as I put it, was the demand for a rent that was affordable. If possible the rent was to be lowered but what I remember, I may not remember as being put precisely in exact words that they should lower the rent but the question then was that the rentals were high (20) and people could not afford them and if people say they demand the rentals that they could afford it means at that time the rentals were high, they could not afford them, and as such the demand would be to lower the rents.

Did anybody there try to find out what the people can afford, what will be acceptable, a low rent? -- The amount was not discussed.

Why not? It was important? -- Much as it was important but I think it is not just a matter of deciding on any amount at a meeting in one afternoon, that this is the amount that (30) would/....

would be affordable by anybody. If we would have said R1 it would have definitely been ridiculous because one cannot expect to pay R1 for housing, if the R1 is what is affordable by everybody then it will be acceptable but if the R1 still is beyond the means of some other people and a great number of people then we cannot just embark on R1 only. If people can afford 50 cents to pay rent we cannot just come and say we demand R1 rent.

COURT: But now the rent includes not only the lease of the house, it includes service charges. If you lower the rent (10) to say for example R1 or R10 or whatever it is how were these services going to be financed, how were your streets going to be cleaned and your rubbish removed? -- My example I give in accordance with how we would refer normally to payments towards the lease and the service charges. We would normally refer to that as just rent. Also our receipts have also just reflected rent, with not divisions of what is paid without that. Now I am explaining to the Learned Advocate that at that time at the meeting it would not have been befitting to just propose, even if it meant proposing R1 for rent, for payment of (20) everything, to be broken down. We had to see to it that if that is R1 is it affordable by everybody. That is what I am saying, that we could not propose anything at that meeting without knowing how much would be affordable by the people.

MR JACOBS: So you say that even if it is R1, say for instance a person's electricity is more than R1 then he only has to pay R1 for all the electricity that he uses in the world? He can use electricity at will and he will only pay R1, or water? And services such as that? -- It may have been unfortunate for me to use that example of R1. But if, I will stick to that (30) example, /...

example, if the R1 can be seen by both those in authority and those in the community as the amount that can be afforded by the people in the community then it can be broken down into the number of issues, like paying for water, paying for the site and paying for electricity. But if the R1 is what is agreed on between the authorities with the community then that will be the amount that is affordable.

I see there is also a demand for proper roads? With adequate road signs. What will you regard as proper roads?
-- By proper roads what is meant there was the roads that (10) are, people could use freely at all times, the roads that are serviced, maintained or even the roads that are tarred.

COURT: Were you prepared to pay for that? -- We were prepared to pay what we can afford.

So if you could not afford it you would demand it? -- If we could not afford it.

If you could not afford it you would not demand it? -- But it would have been worked in such a way that it could have been agreed between those in authority and the people that this can be worked this way, what is the priority. Can we pay (20) for this length of time, for this project, and when that is through can we now embark on the next project. So that all the projects can be covered that if we could not afford them all at the same time, and it is a fact I agree that we could not afford them all at the same time. It would have been costly.

What would you do in the case of inflation? -- That is the point. We could not afford them all at the same time but these were the aspirations of the people, because the people were being paying for service charges. From 1980 when I (30) first/...

first received the rent notice it has been attributed to services charges, the improvements, the lighting and electrification of our houses and all that but little has been done throughout the years, very little has been done throughout years. Now if that was not enough and if it was apparent that people could not afford these then some other means of financing be, the Black Local Authorities was quite necessary, other than depending solely on the rentals which has now become a burden on the people who have got, they felt now very much insecure because with the rising of rents they would not (10) afford to pay the rents and then they would have to be evicted from the houses for failing to pay the rent, for not being able to pay the rents.

Did you ever do a survey to determine how many people were threatened with eviction in this way? Are there any statistics on this? -- I do not have the statistics on this but I have seen occupation of houses changing hands from time to time in the townships there, simply because of the rent, people could not afford the rent.

MR JACOBS: How did you know that? Did you investigate it? (20) How can you tell that when there is a change of occupation that it was because of not paying rent, or of being ... -- One does not normally see change of occupation of houses being as rapid as one would see it after the numerous lock outs on homes, and after people themselves have put it that they could not afford rent, that is why they are locked out, after having seen neighbours moving around trying to borrow money to pay for rentals. Then within a number of months the house is locked up never to be opened again until it is occupied by another person. This was very much well known in the townships. (30)

Did/....

Did you in the VCA ever go to investigate and find out whether those people were only people who had enough money but they do not want to pay for some reason or other, or whatever reason they were evicted, or did not pay the rent? -- If those were people who could afford to pay they would have also afforded to remove their properties from the place where they were locked up and I would say VCA through its area committees, particularly the Zone 7 area committee, have gone to the Administration Board representatives, that is the superintendants, to discuss the issues of evictions and a number of (10) evictions have been stopped because of agreements between people representing the VCA together with people who have been evicted and the particular superintendant.

But my question is, and was, simple. Did you check out and did you investigate to see whether the people were evicted because they have not got any money or whether there were any other reasons? -- Well some instances I am talking about....

That they were not paying although they could have paid? ... in Zone 3 I knew of.

I beg your pardon? -- The instances I talk about in (20) Zone 3 I knew of.

Investigation? -- I am talking in terms of the instances where I have seen the evictions in Zone 3, I have always found out why are the people being evicted.

Did you investigate, what did you, and how did you investigate there? -- By enquiring from the people there and the employees of the Board.

What people? -- The people who were being evicted.

Did you try to find out what their income was? -- I never tried to find out what their incomes were. (30)

So/....

So you did not conduct a proper investigation? -- If their income was that they could afford it they would not have been evicted and it would be such a painful thing when a person is being evicted here and go on to issues like their income.

Mr Vilakazi... -- On the spot there.

Mr Vilakazi will you answer my question please. You never conducted a proper investigation, yes or no? -- To me it was a proper investigation.

You even did not ... -- Enquiring, because I had not embarked on an investigation, a full investigation. Mine (10) was to enquire with regard to that and I feel that the kind of investigation I did to the extent that I enquired was right.

You did not investigate whether those people were able to pay or not, what their income was and, is it correct? -- No I never investigated the income of the people.

COURT: Let me just put it, let us just put it into perspective. How many evictions did you enquire into? -- Between 1983 and 1984 I enquired into about four.

In Zone 3? -- That is so.

How big is Zone 3? -- Zone 3 ... (20)

How many people are there in Zone 3? How many houses? -- About 2000 houses.

So from 2000 houses we had two per year that you enquired on? -- Those that were close to me, that I saw. Personally that I knew of. That I was able to enquire into.

MR JACOBS: Now was there at any stage, up to the date of your arrest, any decision by the VCA or any other body in the Vaal as to what affordable rent should be?

COURT: Up to what stage?

MR JACOBS: From, was there at any stage up to the date of your/... (30)

your arrest any decision by the VCA or any other body in the Vaal as to what an affordable rent should be? -- I know some delegations of both community organisations and trade unions have gone to the employers pleading to them to make it possible that they should enter into negotiations with the people to try to bring the rent around to R30 because that was the figure that was given as affordable in 1984.

And was that the figure ... -- That is apart from what I had seen as a demand in the Press of some group of people who were protesting, demanding rent. Other than these that (10) I have mentioned now I do not know of any organisation that sat down to bring that to that amount.

Did you in the VCA discuss this and find it acceptable? -- I do not remember attending a meeting where this was discussed in the VCA.

One of your requirements for proper roads....

COURT: Now could we just pause there. Now is there any reason why this was not discussed because there was a demand at your first meeting for low rentals that we can afford. Now the authorities, or whoever it is, would like some guidance on (20) that I should take it should the resolution be placed before them? Is there any reason why this was not discussed for a full year? -- This was not yet discussed because the VCA had not developed area committees that could embark on similar investigations as we did not even have anybody full time in the organisation, it was not easy to embark on the project then. And with the coming of area committees it was only then that it was going to be possible with more people in the township to be involved with such an investigation.

Now apart from the figure being mentioned of R30 do (30)
you/...

you know of any survey or investigation that was conducted upon which the R30 was based? -- No, since I did not, I was not involved in the drawing up of the R30 itself I have no information around that figure.

MR JACOBS: One of your requirements, for proper roads to be supplied, you said that you can move freely and that at all times. Must we accept now that in the townships in the Vaal that you cannot move freely and at all times on the roads? -- Yes, by all times I meant that at all seasons, throughout all seasons, I refer to seasons as times. Because during (10) rainy times then you have some roads flooded and one cannot drive through and when it is dry in summer you have some pot-holes coming up from time to time which make it very much difficult travelling around the townships.

So did not the Lekoa Town Council maintain the roads, did they not scrape them and keep them in order or try to keep them in order? -- Like I said that these demands came up because such services were not enough.

No but did they try their best to do it and to scrape the roads or did they just leave the roads ... (20)

COURT: Grade I think you should use.

MR JACOBS: Grade them? -- Some roads were graded but grading was not the answer.

What was the answer? -- Probably the answer was to the building of roads.

ASSESSOR (MR KRÜGEL): What do you understand by grading? -- The grading of roads I understand to mean the scraping of the surface to remove the bumps and to go down to the level of the potholes. So it means when potholes reappear again then it is another form of grading again. But not the actual (30) construction/...

construction of these roads to be able to withstand all forms of weather.

So the demand is actually for new roads to be constructed? -- I would not say new roads because there are roads which were marked and scraped but these roads needed to be improved by being built.

I beg your pardon? I did not hear the last part of your answer? -- I said after the building of the houses in Zone 3, most of which I saw being built after I had taken residence in 1979, there were a number of roads, streets, that were (10) scraped to serve Zone 3, to mark that this is a street, and one could travel through those but immediately there were rains then there were problems. Now what I am saying is that we did not need new roads because it would be, if I understand the new roads it would be tantamount to moving the township to a new area where new road structures would be, but by new roads - that is what I understand - what we demanded was the development of those existing roads.

COURT: So you wanted a resurfacing of the roads? -- A resurfacing of the roads. (20)

MR JACOBS: Now during the buget of 1984 were not provisions made for building or resurfacing of roads in the townships? -- 1984?

Yes. -- But the demands were put in 1983.

Yes, just answer my question, were there any plans for the or projects for the resurfacing or building of new roads? -- From time to time, not only in 1984, that has been the reasons for increases in the Vaal complex.

Were any roads built before, new roads, tarred roads built in the areas? -- In Zone 3? (30)

Zone/...

Zone 3 and the other in the Vaal complex? -- We cannot generalise because other zones were being built from time to time and that would mean new roads there. But what we are talking about services we mean services that are provided for us people. If for instance there is a project that is being explained that there will be an increase of X amount for the electrification of Sharpeville or say for the installation of sewerage system in Sharpeville and this is a project that will take about three years our understanding will be that there will be reports on the project to the people who were paying for those services as residents, there will be reports on the project and when the project is through there will be a financial statement that the project took this much and this is what is remaining and these are other projects that are there and if we have the councillor system it is for the councillors to discuss both the amount that is remaining and the projects that will come in and how are these to be financed. Thereof you hear today this year that there is electrification of houses in Sharpeville, we pay for that. The next time it is electrification of houses in Soweto and throughout there (20) is an increase, there is nothing about Sharpeville but we pay. Then the third year there is electrification of, installation of high mast lights, that is the project, that is a project in its own then an increase for that project. You do not know what happened to the first project, was there any additional money that remained after the project was complete, what happened to that money, the surplus money, what happened to it. The next project the same, and then up to now. And look at your situation you find that you still have the same situation that you found when you entered the house for the very (30) first/...

first time, inadequacy in refuse removal, then you still have your house not being electrified and you still do not have the necessary improvements on the roads, even the street in front of you or probably the houses are flooding, there is no storm water drainage in the vicinity of your house, you are bound to ask questions now, what am I paying for.

COURT: Now let us get some clarity please. How long have you been living in your house? -- Since July 1979.

That is in zone 3? -- That is so.

Now are you saying that since July 1979 there has been (10) no improvement at all brought about in Zone 3? -- That every resident could say these are improvements, say for instance the flooding of houses. That problem has been there constantly.

I take it in a certain area, a certain portion of Zone 3, probably a low lying portion is it not? -- That is so, low lying portions and there will be nothing being done about that. When you talk in terms of improvements on the road that would be scraping and nothing else but you have only where you have the transport system and the central business being situated, that is the only place you find a tarred road and some form (20) of storm water drainage.

Well was that installed since 1979, the tarred road? -- That is so.

So you got a tarred road at least. Was there high mast lighting installed? -- Now, later yes.

Is your objection that one portion of the township pays for the amenities installed in another portion of the township, that a sort of unequal distribution of the funds? -- No what I say is that the improvements are not as rapid as the rent increases. (30)

Yes, / ...

Yes, well one would have to look at the budget and do a financial study before you can say whether they are justified or not, the rent increases. -- But it is difficult without any explanation from anybody.

MR JACOBS: Now well if the rents, which is the source of income of the Council, is reduced whom do you expect to pay for all this, or from whom do you demand the proper roads then, to pay for that? -- If we cannot receive the proper roads and proper services because the rent is inadequate and if the government cannot look into other avenues, government cannot (10) spend money to make housing comfortable for the citizens of this country then it would mean that the people would be prepared to forego the services, rather than having to be threatened by the rent increases, because if they cannot afford the rent increase by all means they still find themselves homeless thereafter.

COURT: Are you saying that the people in Sebokeng did not get increases in their salaries from time to time? -- They did. But these did not match up with the increases. And the other problem with the inflation, and also with the low market (20) of the steel industry we saw people being retrenched in the Vaal complex, companies moving out of the Vaal complex and unemployment escalated. So to some families, at least to some families you would have no source of income and a rent increase.

MR JACOBS: Is there not provision to go to the Council for people who cannot afford it because of unemployment and that the Council will help them? -- My experience has not been that.

Your experience. Did you go to the Council and ask for assistance? -- When I was, after allocation, when I wanted allocation of a house I was offered a house belonging to (30)

a/...

a man who was unemployed and I refused to take that house.

Yes. -- That was in 1979, the Township Superintendant Mr Swart, was swearing at an elderly man, swearing at him and the man was trying to explain that he could have gone to look for work but since he has lost his employment he has fallen ill. I did not want to bring this experience at this stage but it has just come up now.

Do you know ... -- I was hurt by that, I was very much hurt and that was a true reflection of the insecurity in the houses, insecurity of the position of the Black man in (10) the housing in the townships.

When was that? -- That was in 1979.

But did you know of any such occurrence in 1983/84? Under the new system of the Council? -- There have been such occurrences.

On your own experience? -- On my own experience?

Yes. -- I have not suffered unemployment between 1979 and 1983. But I have seen it happening amongst my neighbours.

Did you attend, did you accompany them to the Council or how did you experience it personally? -- How did I experience (20) it personally?

Yes. -- I have seen it happening and ...

No be more elaborate. Tell us what you have seen? -- I have seen a man being unemployed.

Yes? -- I have seen him trying to borrow money to pay for the rentals.

Now where did you see him trying to borrow money? -- Sorry?

Where did you see him? -- In Zone 3.

Where? Where was he trying to get the money? -- He was trying to get money even from myself. (30)

He/....

He was trying to get money from you? -- That is so.

Yes what else, who else? -- And I could not give him the whole amount that he wanted at that time.

Yes go on? -- I gave him R10 to contribute.

Yes and then? -- Towards the paying of his rent.

Did you know what happened at the office, whether he asked for extension of time? Did you accompany him ... -- Well when he told me he had already been on extension of time and the offices were closed, that was on a Sunday when he came to see me. I could not go with him to the offices. I advised (10) him to go and see Councillor Mokoena as the councillor for Zone 3 to solve his problem.

Did you try to go with him the next day, when the offices were open? -- Well the time the offices open I will be at work. But since he was available I told him to go and get hold of Councillor Mokoena to assist him.

COURT: Was he evicted? -- He was evicted ultimately.

MR JACOBS: After this whole debate is there provision in the Council system in Lekoa that you can, persons, needy persons in trouble can get some relief from the Council? -- I have (20) heard of such a provision but I have never seen it work.

Did you try to find out whether there is such a provision? -- I never tried to find out but I have always heard that there is such a provision.

Because the councillors gave evidence in this court to that effect that there is a system that you can approach them. -- The problem is the system, is it being used?

I beg your ... -- Is it being used? If the system was being used we would not be experiencing evictions and if you talk in terms of the resolutions a they are here, drawn in (30)

1983, and in 1984 the resolutions stood, the evictions were the same at the time of the resolutions and I had seen the evictions still being the same in my area.

Is it the trouble of the Council then if the people do not make use of that provision made for them? -- Do the councillors?

The Council, the Council as a whole. -- Are they to blame if the people do not use that?

Yes. -- For the first time when I hear of it I heard of it from the newspapers, it was not explained to me by any- (10) body and I have not heard it even from the neighbours who ultimately got evicted. Had they known of it and, I do not see if there is such a provision there can be any evictions. If there is truly such a provision I cannot believe that this cannot be used to the extent that we can see continuation of evictions.

If there is such a provision, listen to my question again, if there is such a provision that they can get assistance, older people, needy people, from the Board and they do not use it must the Board be blamed for it? -- The councillors are (20) elected there by the people and if this was so serious, because it would be such a serious thing if there is such a provision that the people appeal for and still the people do not use it, they end up being evicted, then I would say the most, that is a serious thing I would see and if the councillors be elected by the people it would be the responsibility of the councillors to bring this to the clarity and to the knowledge of the people in their wards. The councillors would be to blame, if I put it in answering to the Learned Advocate's question. The councillors then would have to be blamed for that because (30) they/....

they did not make people aware of such a provision and where it could be used they did not, they themselves, see to it that such a provision is used even before a person is evicted. Because I cannot see how the existence of such a provision being there and we still have on the other hand evictions continuing unless there are other reasons for evictions.

So you expect the councillors to go around and to enquire into the financial position of every citizen of say for instance Zone 3? -- If it is for a purpose, yes.

So they must go and investigate the position, the (10) financial position of everybody? -- Well I do not see how they would go and go to enquire about the financial position of residents if what is required is for them to make people aware of the provision because the main issue would be there are evictions and if a councillor becomes aware of evictions then the first thing that should come to his mind is are the people aware of this provision. Then it would be up to the councillor, even before going into the other people who are not evicted at that stage, on a bigger scale, but for these people who are at that moment being very much put in a very (20) much desperate position, that of not being housed because they could not afford to pay rent.

I see there is also a demand that "We must not be charged for the maintenance of houses", that is also a demand. Who must pay for the maintenance of the houses? -- The maintenance of houses I expected to be paid for by the amount that is in, that I always referred to as the rent. Because in it being broken down you have services charges being paid for ...

COURT: Yes well if that has to be paid for out of services charges the services charges go up. It is an economic law. (30)

Either/...

Either you maintain your house yourself and pay less or somebody else maintains it and you pay for it. -- That is it. It shows that the mere fact that everything could be paid for from the pockets of the residents without any other source of income for the councils, that really put the residents also in a difficult position because they could not pay.

But anybody who leases a house may have a clause in his contract that he has got to pay for the maintenance of the house, that would not be very strange. Otherwise it would be included in the rent. -- Well I never received such a notice, (10) that I was to pay for the services of my house outside that and with experience before the Community Councils came into being in the Vaal complex the housing, the general service and the maintenance of houses was carried out by the Administration Board. With the coming of the Community Councils, and later the Black Local Authority, the Town Councils, then we saw the people having to pay separately for these services. Now right at the stage where people could not afford for these things, that is when they have got to pay for them separately. Those are some of the ... (20)

You mean do the maintenance themselves or do you mean pay a separate charge for maintenance? -- It is either you paid a separate, if you wanted the authorities to come and carry out some repair work on the house then you paid.

But you paid for what was done? -- For what was done.

For example you could get a private plumber to fix it or you could get the authorities to fix it but then you would have to pay them for it, is that the idea? -- Yes. That was what was happening. Then on the other hand you pay for the services, you pay for the maintenance of houses or else you (30)

pay/...

pay for the services charges. And you did not own the house, you rent it. I would understand it if you do own the house you pay for the maintenance of the house but if you rent the house and you pay services charges and I would not really understand it why should you now pay for the maintenance of the house.

If the Landlord has to pay for the maintenance he just puts it onto the rent otherwise it does not work out. -- But the Landlord is making money out of the rent.

Well that is the question. That is the question in (10) this case.

MR JACOBS: I see there is another demand for adequate recreational facilities. Who must pay for that? -- The authorities.

Which authority? -- Must pay for that.

Which authority must pay for that? -- The government.

So the government must pay for that and what ...

COURT: That is now the central government, not the local government? You mean the central government? -- The local government I would refer to. (20)

The local government being the Board? -- That is so.

With moneys it got where? -- From the bars and beerhalls.

MR JACOBS: You regularly refer to other sources of income. What do you mean by that? -- By that I mean income received from beer outlets and bottlestores in the townships.

Yes. What kind of income from that? -- The profits from those.

Now in the past ... -- To be diverted into developing the townships.

Now before the Council system did they not plough the (30) profits/...

profits from the beerhalls and bottlestores back into the community? -- That was done, that is why we did not pay for the maintenance of houses.

Yes. -- That is so.

And after 1983? -- After 1983 and a little while later we were to learn that even the Board was doing away with ownership of the bottlestores.

Yes. -- To private concerns this time, not even ceding it to the Town Councils so that at least the Town Councils should have these bars and bottlestores as a source of (10) income to be able to subsidise the rentals of the residents.

So that is one source. What other sources? -- Other sources would have been the construction of big business areas where these businesses would pay rates to the Councils and this also would subsidise the rent.

Now who must construct big business areas? -- If the Councils had land then between the councillors and the business people that could be discussed.

Lend? What do you mean by lend?

COURT: Land.

(20)

MR JACOBS: Land. And then? Then he will tax them? -- And when they reach the agreement then either of the two would build. But if, normally what I know is if land is provided then the big business will construct.

Any other sources?

COURT: Just a moment, when you speak of business do you mean business sites or do you mean industrial sites? -- I used big business to imply industrial sites.

Industrial sites, yes thank you, I thought so.

MR JACOBS: Do you agree that is also a speculation because (30)

you/....

you do not know what the big business people will do, whether they will come or not? -- I have seen big business going out to places like, dry places like Rustenburg, away from rivers where they could get water to use in their production processes and away from transportation of their products and all like this. I would not see any difference between Vereeniging and Sebokeng. I would not see any problems in big business exploiting the opportunity of expanding into Sebokeng.

You must agree it must be profitable for the big business to come to such a place? -- That is so. (10)

There must be special concessions for him to lure him to come to such a place? -- That is so.

And then it might be that you will not get such a big income? -- Everything depends on negotiations, that is why I am a strong believer of negotiations. Because through negotiations even if the industrialists would not be keen but offers are offers.

COURT: We can ponder all possible offers tomorrow morning Mr Jacobs.

COURT ADJOURNS UNTIL 28 JANUARY 1987.