

A

SAAKNOMMER: CC 482/85

PRETORIA

1988-06-15

DIE STAAT teen:

PATRICK MABUYA BALEKA EN 21

ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST EN

ASSESSOR : MNR. W.F. KRUGEL

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 419

(Bladsye 24 539 - 24 584)

COURT RESUMES ON 15 JUNE 1988.

MR BIZOS: My lord in order to enable your lordship to possibly make plans the one aspect may well please your lordship and that is that we have assessed that in all probability we will finish with the leading of evidence before the end of next week. The other, I want to take the first opportunity to disclose that despite efforts we cannot have a witness here after Dr Motlana is finished. Our programme has been sort of in disarray as a result of this Alexandra witness not turning up and we had specifically arranged for Professor Daws Dekker(10) from the University of the Witwatersrand to be the following witness. I saw him yesterday and I expressed the court's desire of the importance of bringing him a day forward but there is a faculty or a departmental meeting at the business school at the university today which he felt that he could not possibly be absent from. So that we will be constrained to ask your lordship to give us an adjournment. The time will be well spent because I am expecting a number of admissions from the state and Mr Jacobs tells me that he has not had time to really make up his mind because he has to refer to the record and (20) also to discuss the form of the admissions with us. They cover a number of topics. So the time, as your lordship pleases, may well be best served in that ...

COURT: So are you proposing that we start tomorrow with a fresh witness?

MR BIZOS: With a fresh witness, yes.

COURT: That is now the professor?

MR BIZOS: That is the professor.

COURT: And what will he tell us?

MR BIZOS: About labour my lord. (30)

COURT:/.....

COURT: About labour matters.

MR BIZOS: And the role of the trade unions and how it started. He will not be as long as the other witness but it will be, shorter but in substantially similar form to that of Dr Hartzhorn in education.

COURT: Thank you Mr Bizos.

NTHATO HARRISON MOTLANA: d.s.s.

FURTHER CROSS-EXAMINATION BY MR FICK: Dr Motlana just one other aspect. You gave evidence about the keynote address delivered by Mr Sisulu at the conference in March 1986 in Durban, the (10) NECC conference? -- I was at the NECC conference but did not listen to the address given by Mr Sisulu.

Ja. Now is it correct that there was no resolution adopted wherein the keynote address was rejected? -- I would say there was no such resolution that I can remember.

There was also no resolution adopted to the effect that the NECC do not associate itself with the keynote address? -- I am not aware of such a resolution.

Then I would like to turn to the matter of the funeral of Bongani Khumalo. (20)

COURT: Do we have a date to that funeral?

MR FICK: I will get it in a minute. It was on 26 September 1984, is that correct? -- I remember the funeral but I cannot remember the date.

That is the evidence of the state witnesses in any case my lord. Now is it not practice to invite leaders of the community organisations to such funerals to deliver speeches? -- That is the habit.

And is it also not a well known fact that these funerals, especially funerals of unrest victims, are used by the (30) organisations/....

organisations to popularise their aims and their actions and to mobilise people to partake in the struggle for liberation? -- A funeral is a funeral. We go there to mourn the untimely death of one so young as Bongani Khumalo and in mourning such a death we would, as of necessity surely, recreate, remember the circumstances that would lead to that kind of death and if in doing so we also emphasise the disabilities of our community. I would not have been the original intention of such a get together. We had gathered there to bury Bongani Khumalo.

Now were you at this funeral from the start up to the (10) end? -- I cannot remember whether I was there from the beginning to the end. I was there from the beginning but I did not stay on to the end of the memorial service.

Now at what stage did you leave the service? -- After I had been told that my presence was undesirable. I then left.

And before you were called upon to speak were there other speakers? -- There had been other speakers.

Community leaders? -- Community leaders.

Did you get a programme of the service before the commencement of the service? -- I cannot remember that but it often (20) happens that we do prepare an agenda with a list of speakers.

Can you tell whether you were the last community leader to speak? -- I think I was somewhere in the middle, not the last.

Somewhere in the middle. And as far as you know you were the only speaker who was asked not to speak? -- As I recall I was the only one asked not to speak but then I left before the meeting was over so I cannot say whether anybody else was also prevented from speaking.

And was there a master of ceremonies at this funeral? (30)

-- There/....

-- There was.

Do you know who the master of ceremonies ... -- I cannot remember the name now.

Now the executive of COSAS in Soweto were they at the meeting, the members of the executive? -- I cannot say whether the members of the executive were there but I do know that there were members of COSAS in that meeting.

Is it correct to say that the brother of the deceased Bongani Khumalo, he was on the national executive of COSAS? -- I do know the brother of Bongani Khumalo but I did not know (10) that he was on the national executive.

Jabu Khumalo? -- I do not know whether he was a member of the national executive.

Was he at the funeral? Of his brother? -- I am not sure but I would assume, I would think that he was at the funeral.

And you were invited by the executive of COSAS to speak at this funeral? -- I cannot remember, as I have said already, who exactly invited me but I was invited by the organisation.

And the master of ceremonies, did the same person remain the master of ceremonies from the start up to the period (20) when you left? -- I am not sure. Sometimes in these very big meetings or very big funerals the chairmanship of such a meeting would be shared between one or two or even three individuals. I am not sure whether in fact the master of ceremonies remained the same throughout that ceremony. That I could not say.

Yes but did anyone take over the arrangements or take over the meeting whilst you were there? -- I cannot recall that happening.

Now you were then called upon to speak and did you go (30) to/....

to the stage? -- Yes I got up to walk towards the ...

And at what stage were you stopped? Where were you stopped? -- I was already sitting on the platform itself. It was just a question of walking from where I was sitting to where the microphones were and between the microphones and where I had been seated I was intercepted by this young man who asked me not to speak.

COURT: Did he come from the audience? Or was he also on the platform? -- I am not sure where he came from. I just saw this young man in front of me. (10)

MR FICK: Dr Motlana in your evidence-in-chief you said that this man came from the audience. Are you now changing your evidence? -- If I said that I stand to correction. He may not have come from the audience. He just intercepted me between the microphone and where I had been sitting. He could have come from the audience, he could have come from the platform itself or he could have been one of the marshalls who were, you know, walking up and down making sure that order is maintained in that hall. I am not sure where he came from.

Now, then you turned back to your seat? -- I did. (20)

And did you ask anyone on the stage what was happening now, why were you prevented? -- I did not.

And did you ask the man who stopped you why can you not speak? -- Not at that moment. I enquired afterwards why I had not been allowed to speak but not at that moment.

From whom did you enquire? -- I discussed the issue with members of my executive informally and got to learn, and I cannot remember now who told me, the reason why I was prevented from speaking.

But you did not contact COSAS in Soweto? -- Not (30)

officially./....

officially.

COURT: Well not unofficially either? -- Not unofficially either.

MR FICK: Doctor I want to put it to you you were not invited to speak at this funeral, that is the reason why you did not speak? -- That is a most surprising statement. I was invited to speak at this funeral. My name was on the programme and when my time came to speak the chairman or the MC called upon me to come and speak.

But now Dr Motlana you must please make up your mind. (10)
Previously you said that you do not know whether there was a programme and now you say that your name was on the programme. What is the position now? What is the truth? -- The fact is, I do not know what you are getting at, the fact is here is a chairman who is conducting a meeting who calls on successive speakers as the meeting goes on. He starts with say the Reverend Chikane and later in the programme after we have heard the Reverend Chikane he says "Now we will call upon our next speaker Dr Motlana". I just cannot understand what you are getting at. And I was called upon by the chairman to (20) come and speak. I went to this meeting because I had been invited to speak.

Now but you said that your name was on the programme? Where did you see that? -- When I say my name is on the programme I did not say on a written programme. Clearly my name must have been on the programme for the chairman or MC to run down a list of speakers and then say that our next speaker will be Dr Motlana. Surely we must assume that in fact that was the order. Whether the programme was written down like that or whether the chairman had it in his head is not for me to (30)

say/....

say but I know that I was next and I was called next to speak.

Did anyone of COSAS come afterwards to you to apologise for the actions of the member of COSAS in this meeting? -- Nobody came to me to apologise.

COURT: So up to today you have not been, nobody has apologised to you for this sort of behaviour? -- No apologies were issued but an explanation has been.

ASSESSOR (MR KRUGEL): Was this gentleman a member of COSAS? -- I knew him as a member of COSAS.

MR FICK: Now ... (10)

COURT: But now what was the explanation? -- The explanation was that I had annoyed members of COSAS by attending and speaking at the unveiling of a tombstone to the late Mr Pixley Ka-Seme one of the founders of the African National Congress. I had been invited to speak at that unveiling to the name we all revere as the founder of the African National Congress. I assumed when I received the invitation that I had been invited by the family of Pixley Ka-Seme. It transpired later that in fact that commemoration service, that that tombstone had been erected by one organisation called Inkatha and these young (20) men objected to my being associated with that organisation.

MR FICK: Now Dr Motlana the court saw a video recording of this service and of the funeral, EXHIBIT V.27 is a transcript of that recording and I would like to put to you that at this service there were also a lot of freedom songs, a lot of freedom songs were sung, is that true? -- I would not deny that songs were sung.

Freedom songs? -- Freedom songs were sung.

I would like to put it to you that not a single church song had been sung at this funeral? -- Not having seen that (30) video/....

video I could not say whether church songs were sung or not.

And I put it to you that a lot of songs were sung about Tambo, the song "Tambo hold my hand". Can you remember that? -- I cannot remember that.

Can you remember that there was a lot of slogans about Oliver Tambo? -- I cannot remember that.

Can you remember that there was a, I am not sure whether it was a poster or a banner, with the drawing of an AK47 displayed in the ... -- I cannot recall that.

... in the hall. And can you recall that there were (10) songs sung about Mkhonto we Sizwe? -- No.

A song "Go well Mkhonto we Sizwe"? -- I cannot remember a song specifically about Mkhonto we Sizwe.

Well I would like to put it to you that at this funeral they sang about Mkhonto, the song "Go well Mkhonto we Sizwe, we are determined to kill the boers". You cannot remember that? -- I cannot remember that.

And a number of Viva ANC's and Viva Mkhonto we Sizwe's were shouted at this funeral during the service. Can you remember that? -- I cannot remember that. (20)

Can you remember there was a song about "Tambo let us free. The bazooka, the mortar, the AK." Can you remember that song? -- No I cannot remember that song.

You gave evidence about the actions of the police at Regina Mundi but I would like to put it to you that at this funeral the police were only there in their vehicles, casspirs, but that the people marched past the vehicles on the way to the grave. They shouted to the police that they are dogs, they provoked the police and they threw stones at the police at a later stage. Can you say anything about that? -- By the (30) time/....

time the cortege and the mourners left the hall I was not there. I have already indicated that I left before the end of the meeting but if you say that the people insulted the police, well maybe that was what was recorded on your video. I would not deny that it happened, it might have happened.

Now is it correct that a great number of people in the hall were wearing COSAS and AZASO T-shirts? -- I cannot remember that but this is possible.

Have you seen the people with the T-shirts with the face of Bongani Khumalo printed on the T-shirt written beneath (10) it "Hamba gashle"? -- I have seen those T-shirts.

Is it correct that these T-shirts were supplied by COSAS for the funeral specifically? -- I would not know who supplied them.

Can you remember that at this funeral there was also the song about the supreme court which is on fire, the boys of Mkhonto hit it yesterday? -- I do not remember that.

Can you remember the song sung "The guns are in Angola, come with the guns"? -- No I do not remember that.

Well I would like to put it to you Dr Motlana that (20) these songs were sung and they were sung and the slogans shouted specifically to incite the people at the funeral? -- We have discussed the chanting of songs. We have agreed, at least I have said that it is my view that these young men who come and chant these chants - and these are not freedom songs - they chant these songs depending very often on the prevailing conditions at that particular time. There might have been a raid by South African in Angola with the killing of Angolan civilians. There might have been a raid into Mozambique or into Botswana and when we have a meeting following such incidents (30)

those/....

those particular incidents will be remembered in chant and young people, out of control by the chairman or MC, would then dance between the stage and the audience chanting those songs. They are not freedom songs. They are chants, they are sayings very often very defiant as is so typical of the young. But it does not mean that the audience is being urged to do anything of that kind.

Did the Soweto Civic Association accept officially any colours for their banners, T-shirts? -- Accept officially?

Officially. -- We had no official colours but we did (10) print T-shirts that contained the colours already referred to yesterday.

And I put it to you that the colours black, green and gold were used because you were, it was a well known fact that these are the colours of the ANC and the Soweto Civic Association was popularising the ANC? -- I thought we agreed yesterday that the three colours referred to are not the exclusive property of the ANC, that in fact they had been popularised even more by one officially recognised organisation, namely Inkatha, and therefore nobody in 1988 or 1984 for that (20) matter would associate those three colours exclusively with the ANC. We in the Civic Association of Soweto, I repeat, were interested in the alleviation of the day to day problems that beset the people, we were interested in seeing the establishment of local authorities that would be responsive to the needs of the people. It was not our job to popularise any other organisation.

Dr Motlana is it correct that the Soweto Civic Association had a meeting, an anti-local authorities meeting, at Regina Mundi on 27 November 1983? -- I cannot remember that meeting. (30)

It/....

It is the meeting where Professor Ismael Mohammed delivered the speech? -- I remember Professor Mohammed's speech, addressing our meeting.

And were you present there? -- Did you say Regina Mundi?

Regina Mundi. -- I seem to recall a meeting addressed by Professor Mohammed in Phiri Hall.

COURT: I am sorry in? -- Phiri Hall.

Phiri Hall. -- Are you sure about Regina Mundi counsel?

MR FICK: I am referring to the notes of the professor himself that he delivered a talk at the Regina Mundi, Soweto, at (10) the Soweto Civic Association anti-local authorities meeting on 27 November 1983. -- If he says so it must be so but I remember hearing him at Phiri Hall. Maybe it was a second meeting.

Do you know whether you attended the second one? -- At Phiri Hall?

No the one at Regina Mundi? -- I would have to refresh my memory about that meeting but it is probable that I attended it.

ASSESSOR (MR KRUGEL): Probable did you say? -- Yes.

MR FICK: Is it a meeting where Oscar Mpetha was also present.

-- I cannot recall. (20)

Cannot recall. -- I am almost certain I was not at that meeting if Oscar Mpetha was there.

Now who formed the Parents Committee on Education in Soweto? -- The Soweto Civic Association did that.

Are you sure? -- The Soweto Parents Education Crisis Committee?

The Parents Committee on the Education Crisis.

COURT: But now is that the name or are you merely describing what its function was?

MR FICK: My lord I am referring to the committee as it is (30) referred/....

referred to in a document. It is called the Parents Committee and it is on the education crisis. -- No I do not know which body you are talking about. We of the Soweto Civic Association called a meeting August 1985 at which the Soweto Parents Education Crisis Committee was formed. August 1985.

Was there not any parents committee formed before 11 November 1984 in Soweto? -- It probably was not formed by the Civic Association. There were a number of parents, parent-teacher, parent-pupil committees formed over that period of crisis in black education but we were not responsible for (10) the formation of those committees. We formed the Education Crisis Committee in August 1985.

And I would like to refer you to an exhibit, EXHIBIT AM.23 my lord, it is in volume 2. The document was found in the UDF offices, Johannesburg. AM.23. Now on the face of it it appears to be resolutions adopted by the Soweto Civic Association. Do you know this document Dr Motlana? -- Are you referring to these resolutions?

AM.23. Do you know the document?

COURT: Have you got it in front of you? -- Ja I have got (20) it in front of me.

It reads "Resolutions" on the left-hand top.

MR FICK: Then there follows a number of pages with resolutions on detentions, on police, regional representation, pensions, housing, etcetera. -- Yes I know about these resolutions.

Are these the resolutions of the Soweto Civic Association? -- They are.

Can you tell the court when was it adopted? I cannot find a date on the document? -- Oh I cannot remember the date but I remember this particular AGM where our main speaker was a (30)

Reverend/....

Reverend Xundu from Umlazi.

Was it during 12984? -- It was during 1984.

Now I would like to refer you to page 4 of the document.

There is the heading:

"On the proposed regional representation of the so-called urban blacks and the new constitution."

Do you have the page? -- I have the page.

Well you will see there in the middle of the passage there is a paragraph numbered no. 2. It reads:

"Calls upon our people to intensify their rejection (10)
and boycott of all present and future unrepresentative
and undemocratic government structures and the individuals who serve in them."

And 3:

"That the SCA should mount its campaign to ensure that councillors should resign from these structures."

Now paragraph 2, what was the motive behind the resolution?

Was it a call on the people to boycott inter alia the payment of rent? -- We had not yet come to the question of rent. At this particular moment we were calling on the people to (20)
intensify their old aged rejection of these structures. The boycott of advisory boards, urban bantu councils and all such undemocratic and unrepresentative structures has a very very long history.

Also the boycott of the councillors? -- And the boycott of councillors.

Now how should they boycott the councillors, in which way? -- One way would be not associate with them even socially. Not to invite them to your weddings, your meetings, your parties. Let them feel the ostracism and rejection of society. It (30)

might/....

might involve, although it is not spelled out here and it was not spelled out, it might have involved a boycott of their businesses because one of the things that the people were bitter about was the fact that these councils were really established to share out business sites.

No, no, your answer referred to the boycott of the individuals who served in these structures but how are the councils themselves to be boycotted? -- I have already said that it might mean, it was not spelled out here and I do not even remember it being discussed but I mean if one was asked to spell out (10) as you are I would say that that would involve not inviting them to your parties, to your meetings, to your weddings and so on. Let them feel the rejection of society.

I find it very difficult that you, the Soweto Civic Association should adopt a resolution without discussing it. -- It is common cause that when you adopt a resolution, even when our government passes a law, it then has to sit back and work out and write out rules and regulations about how that law will be implemented. You do not pass a law and suddenly hey presto you know exactly how it is going to be implemented. I have (20) heard of laws passed years and years ago which have not been implemented because I am told that the rules and regulations pertaining to that act have not been spelled out yet and it is possible for us as the Soweto Civic Association to pass a resolution in principle and then go out, back to the back room to work out exactly the rules and regulations and even how the campaign will be conducted. You cannot say that because you pass those resolutions you must know exactly how you meant to implement it.

Another subject. Did the Soweto Civic Association seek (30)

a/....

a mandate from the youth organisations like COSAS, AZASO, SOYCO, AZASM and AZANYU to act on their behalf in the education, on the education issue? -- No we did not seek the permission or a mandate from these organisations although as members of one community with did consult informally. Many of the members of the organisations mentioned were in fact members of the Civic Association, attended our meetings and knew what we were about. So consultation was an ongoing process. But we did not go to them to seek their mandate.

Will you please turn to EXHIBIT AX.14. Do you know (10) this document AX.14? It appears to be minutes of meetings of the Soweto Civic Association. -- I do not know this document. It appears very strange. It is written on the letterhead of Metropolitan ...

COURT: Yes, this document was written by accused no. 16, Mr Manthata.

MR FICK: Was he the secretary? -- He was the secretary.

Did he keep the minutes of the meetings? -- Yes.

Now will you turn to page 2, the heading of the page is:

"Meeting of the 28th of October 1984. (20)

Present: The Chairman Dr Motlana."

Then approximately in the middle of that page it is stated there:

"Students education crisis, whether the SCA was involved."

And the then the following: -- I am sorry I am not with you.

Page 2, approximately in the middle. -- Yes page 2.

Ja the heading of page 2 is "Meeting of the 28th October 1984". -- I have got that.

Now approximately in the middle of the page it is written there: (30)

"Students/...

"Students education crisis. Whether the SCA was ignored."

-- Oh yes I see.

And then the next line:

"Committee met with COSAS, AZASO, AZAPO, AZASM. COSAS and AZASO gave the committee the mandate to mediate. AZAPO and AZASM not committed. Demand for release of the detained leaders, corporal punishment according to the rule."

Now what can you tell the court about this? -- I am afraid I cannot remember this meeting but if my secretary has recorded(10) these minutes and they were signed as a true record of our meeting at our next meeting, which is what should happen to all the minutes of committees and associations, with corrections and I am not sure whether there is a next meeting at which these minutes were read and passed as a true record of this meeting. If that has not been done there could be doubts whether in fact all the information contained therein was accepted and passed as a true record of that meeting.

Well if you turn to page 4 you will find a meeting of 11 November 1984. There it is stated: (20)

"The minutes corrected and minutes adopted".

-- Are we now referring to the minutes of 28 October?

I do not know but it is the next meeting according to the document.

COURT: Page 4, it is 11 November 1984, the meeting of 11 November 1984 is the heading. -- It does not say what minutes but let us accept that it would probably refer to the minutes of the 28th.

MR FICK: But did not the Soweto Civic Association take up the issue of education? -- We did. (30)

And/....

And did you not do it on behalf of COSAS and AZASO? -- Most certainly not. On behalf of the black community, on behalf of everybody. Students, parents, of course COSAS and other student organisations were involved in the crisis in education but I would say we took up the issue on behalf of everybody. Particularly the parents.

Now will you please turn to page 10. Page 10 is part of the minutes of 25 November 1984 which starts on page 6. Now just before we read from page 10 I cannot remember what did you say about Vusi Khanyile was he a member of the Soweto Civic (10) Association or not? -- Much later. I cannot remember when he joined us but he became a member of the Soweto Civic Association.

Was he not in 1984? -- I am not sure. I cannot say.

Because on page 6 we find the name of Vusi Khanyile as the master of ceremonies together with Patrick Lephunya. -- Page 6 you say?

Page 6 yes.

COURT: You must spell these names Mr Fick because the typist will have problems. (20)

MR FICK: Vusi Khanyile is V-u-s-i, and the surname is Khanyile, K-h-a-n-y-i-l-e. And Patrick Lephunya is P-a-t and the surname L-e-p-h-u-n-y-a. -- I do not see the name of Vusi Khanyile on page 6.

Page 6 in the middle of the page.

COURT: Are your pages numbered? -- Yes I have got page 6. Oh yes, but it says MC, Vusi Khanyile, Pat Lephunya.

Ja. Did he not attend your meetings, was he not appointed master of ceremonies by Soweto Civic Association? -- If he was master of ceremonies at a meeting of the Civic Association (30)

he/....

he must be appointed by the Civic Association. But what I was referring to is when he became a member of the executive. I am not sure of the date when he did become a member.

COURT: Well we see a Vusi on page 10 under the heading "Committee Comprising", Dr Motlana, Mogase it seems, and then Vusi and Pat and Nick. And at the bottom of page 8 as well. -- The names appearing on that page, page 10, did at one time or another become members of the executive.

Well if we find them at page 10 and page 8 and page 6 is it not probable that at the time he was a member already?(10) -- It is probable.

MR FICK: Yes on page 9 he is now mentioned as one of the delegates together with you. -- I have already said that all those names mentioned on all these pages, Pat, Vusi, Nick, Thabo - I do not remember who Thabo is - but all the other names I remember were at one time or another members of the executive of the Civic Association.

Now let us turn to page 10, the second line from the top, the heading "Matters Arising":

"Meetings with the students organisations COSAS and (20) SCA. Students decided continue with the boycott. Consult with the students on the issue of boycott. AZASM no meeting yet. COSAS would like the SCA to play a part. COSAS desires to discuss the type of the SRC that COSAS wants with the SCA. Western Cape has its own SRC."

Now I would like to put it to you that COSAS, the organisation, was behind the boycotts in the schools, they decided on the boycotts and they decided on how long the boycott should last? And when it should end? -- I cannot answer for that organisation. (30)

No, /

No, but you had discussions with them? -- We did.

Yes, and what did you discuss? Is it correct what I am putting? -- We discussed the boycott of schools.

Yes. And their decision to continue with the boycott? -- Not only COSAS but a lot of people, many student organisations, wanted to continue the boycott. I do not know why we should want to blame COSAS. I would imagine that very many people ...

COURT: Well is it not so that COSAS was by far the biggest students organisation? If we mean by students scholars? (10)
-- That would be correct, that COSAS was the biggest. But it would not be correct to say it was the only organisation that articulated the need or campaigned for a boycott. Many of the people who do not belong to COSAS also felt that schools should be boycotted.

MR FICK: Was it not part of the policy of Soweto Civic Association to force the councillors to resign? -- It was never our intention to force them. Our intention was always to persuade them. And I can assure you that we were even on social terms with them and I think I should tell you of the luncheon that (20) I had with the chairman of the Deep Meadow council and the Soweto council in an attempt to persuade them to mend their ways. It is not a question of forcing them.

Now will you please turn to EXHIBIT W.2. It is volume 1. It is a speech of March 1985. Page 2 in the middle of the page there is the heading "Councillors doing Board dirty work".
-- Where are we, what is this page?

Page 2 of EXHIBIT W.2. I think you are busy with W.1. Will you please turn to the next document. -- Yes W.2.

Now will you please turn the page to page 2. -- Oh. (30)

There/....

There with the heading "Councillors doing Board dirty work". Now the fourth column from the left-hand side. The last paragraph under that heading:

"Pat Lephunya, secretary of the SCA, explained why electricity bills were so high."

And then he is quoted, and then I would like to refer you to the very last paragraph:

"He called on residents to unite and force the councillors to resign."

Have you seen that? -- I have seen that. (10)

I put it to you it was part of the policy of the Soweto Civic Association to force councillors to resign? -- It was, I deny that force was ever mentioned in our meetings. We certainly campaigned for their resignation but force was one thing we never discussed, we never intended.

Patrick Lephunya, he was the secretary of the Soweto Civic Association? -- He was the secretary.

He still is? -- Oh no he is not.

Since when? -- He was taken into detention some time last year. (20)

Up to his detention he was secretary? -- He was organising secretary.

Now we know about the boycott, 5 and 6 November 1984. Do you know about it? -- Boycott of what?

The stay away, the big stay away of 5 and 6 November 1984. -- Oh I cannot remember.

You cannot remember the big stay away, the two day stay away? -- There have been very many stay aways. You say November. I would have to refresh my mind, I am sorry.

Can you not remember whether Soweto Civic Association (30)

was/....

was part of the organisations which organised this stay away?
-- No I cannot. I am sorry I cannot. I would need to refresh my mind, my memory.

Well will you have a look at EXHIBIT W.11. It is in volume 3 my lord. Now ...

COURT: What is the admission in respect of this document?

MR FICK: It was found in the possession of D. Dunyura, Tumahole.

COURT: D?

MR FICK: I will spell it, D-u-n-y-u-r-a, Tumahole. Do you know Thami, T-h-a-m-i and the surname M-a-l-i? -- I know of (10) him. I do not know him well. I think I have met him once or twice.

And do you know Moses Mayiekiso, M-a-y-i-e-k-i-s-o? -- I have attended one of the meetings addressed by Mayiekiso but I would say I know him. I know of him.

Now were they not detained for the activities during the stay away of 5 and 6 November 1984? -- I cannot remember that.

They were charged in a court. Can you not remember that?
-- I cannot remember that.

You cannot remember that except for Moses Mayiekiso all(20) the accused left the country? -- No I cannot remember that.

While on bail? -- I beg your pardon?

While on bail, pending the hearing. You cannot remember that. -- One of the things I have forgotten.

Yes. Now will you look at EXHIBIT W.11. The first. This is a document with the name "Izwilethu", I-z-w-i-l-e-t-h-u.

-- What page is that? Page?

Page 1.

COURT: I am sorry, that is what is supposed to be under the black blockage?

(30)

MR FICK:/....

MR FICK: That is so my lord. Yes I am reading from the second page of the exhibit.

ASSESSOR (MR KRUGEL): And the date? -- The date is November 1984. That can be also found on page 2. Now on page 1....

COURT: Now what is Izwilethu? Doctor what is Izweilethu? Do you know the document? Have you seen this sort of thing before, Izwilethu? -- Are we talking about this page?

Yes, yes, turn the page and you will see the name of the... -- Oh Izwilethu.

Yes. What is it? -- No I do not know this publication. (10) I have not read this publication.

MR FICK: According to page 1 under the heading it is an official newsletter of the Council of Unions of South Africa. Now I would like to refer you to the first paragraph, the first column the last paragraph under the heading "COUSA slams detentions":

"Police also raided the offices of the United Democratic Front a few days after the stay away. Several UDF affiliates were in the forefront of the stay away. These included COSAS, FEDSAW, the Release Mandela Committee, the Soweto Youth Congress and Pretoria, Soweto, Vaal, East Rand and Alexandra Civic Associations." (20)

Were you not in the forefront of this stay away? -- No. We were not in the forefront of any stay away.

Well I would like to show you another document. EXHIBIT AB.7. It is in volume 1. Document no. 6. It is a press statement, press statement. -- What page is that? Oh here we are.

Yes it is a press statement. Now according to this document, I am reading from the middle of the page, the first(30) page/....

page of the press statement:

"On 27 October the meeting took place and went through the same issues as outlined in the previous agenda but this time a concrete action was to be taken. The organisations present are the following:"

Then a number of organisations are mentioned and if you turn the page you will find Soweto Civic Association at the top, organisation number 17. What can you tell the court about this meeting? -- I cannot remember this particular meeting but it is possible that we had representation at this meeting. (10)

But was it not reported back to your meetings? -- I cannot remember.

Do you know the Transvaal Area Committee? -- I know of the Transvaal Area Committee.

Which organisations belonged to the Transvaal Area Committee? -- I am not sure what the organisations names are.

Will it be correct to say that they were affiliates of the UDF? -- It would be correct to say they are affiliates of the UDF.

Yes. Now according to this press statement, you find (20) on the third page, it was a press statement issued by the Transvaal Area Committee. You find on page 2 at the bottom there, I would like to refer you to the last paragraph:

"We the people of Transvaal also demand the withdrawal of these terrorists who terrorise our townships, nicknamed police."

Do you in the Soweto Civic Association regard the police as terrorists? -- No. We have not referred to the police as terrorists.

And will you turn the page then, page 3 at the top: (30)

"We/....

"We therefore say to Constable Louis le Grange (that is the minister), Viljoen that their adopted babies by the name of councillors meet these demands or else." I put it to you it was a direct threat? -- I am afraid it is the first time I see this statement.

"We have been long voicing out these grievances verbally. Now we are taking the first steps practically."

-- Well I would imagine that it is the kind of statement a political organisation would issue. The fact that they say here that you meet these demands or else does not in my (10) opinion mean that violent action will be taken. It might mean that if you do not take that action a demonstration might be held for instance. Why should we exclude the possibility of further peaceful action to have the police removed from the townships? Why must we necessarily assume that the "or else" must include violence?

And did violence follow? -- It did not.

During the stay away? -- In fact most of the violence I am afraid was committed by the security officers who shot, who had opened fire on innocent people. (20)

You know Dr Motlana you are definitely not objective. On the one hand you tell the court you cannot remember even the stay away and on the other hand you come and tell the court that the police were responsible for the violence during the stay away. -- I was not referring to that particular stay away. What I was referring to is the kind of violence where we would congregate at Avalon Cemetery to unveil a tombstone to the 28 people killed by the police a year, two years before and the police would come to this peaceful congregation where a priest was preparing to bless this occasion and say to me as chairman (30)

of/....

of the Civic Association "We give you five minutes to get the hell out of here" and I had to plead and beg and I know that that if we are not out of that cemetery in five minutes the police will start beating us up. That happened so often. That is what I mean when I say that that violence very often is caused, is occasioned by the police.

Now in your campaign against the anti-black local authorities, the anti-black local authorities campaign, did you establish an anti-community council committee or committees in Soweto? -- It was not established by the Soweto Civic Association but we were asked to send representatives to that committee. (10)

COURT: What is it, anti-community councils? -- Anti-community councils campaign.

Campaign committee, or campaign? -- Campaign committee. I think it was campaign committee. We even formed that committee.

MR FICK: Now we will have a look at EXHIBIT W.19. It is in volume 3.

COURT: W.19?

MR FICK: W.19. It is in volume 3. It is a SASPU National (20) dated March 1984. A document found in the possession of A.E. Saloojee in Johannesburg. Do you have the SASPU National of March 1984? Do you have it there? Yes, now will you please turn to page no. 17. The pages are numbered at the top. Do you have page 17 Dr Motlana? The pages are numbered at the top of the ...

ASSESSOR (MR KRUGEL): Some of them are not numbered at all.

MR BIZOS: Can we hand the witness ...

COURT: Let us stick to that one, it should be there.

ASSESSOR (MR KRUGEL): Page 17 is right on the top right- (30)
hand/....

hand corner. - - Some of them are not numbered, many of them.

COURT: It is printed.

ASSESSOR (MR KRUGEL): About two thirds into the document.

COURT: Yes please Mr Bizos help ... -- Oh here we are, we have found it.

MR FICK: Now it is an article under the heading "Who will clean up the mess after the election party". Now will you please have a look at column 4, the very last paragraph, the last sentence of that paragraph:

"Organisations such as the Soweto Civic formed anti- (10)
community council committees to wage the boycott campaign.
In other areas anti-community council committees were
formed as the nucleus of future civic organisations.
The BLAs are in for a rough time."

Now what do you say to that? -- I do not find anything exceptional in that statement.

No but it is contradicting your evidence. -- Which evidence?

That the Soweto Civic Association did not form an anti-community council. -- I could be wrong but I remember very clearly that we did not form an anti-community councils (20)
committee but we sent representatives. I even remember the young man who represented us on that anti-community council committee. We ourselves did not form it. There was an existing committee formed I do not know by who, I cannot remember who now, to which we sent representatives.

Was it a committee composed of representatives from various organisations in Soweto? -- I assumed it did contain representatives from other organisations to which we also sent representatives, but we did not form it.

And how long did the anti-community council committee (30)
exist?/....

exist? -- I am not sure how long it existed.

Did it cease to exist after the elections or did it carry on? -- I think it became inactive after the elections.

Now after the problems in the Vaal on 3 September 1984 did the Soweto Civic Association send any messages to the people in the Vaal? -- I cannot remember whether we did.

Did you not send any message to compliment them on their reactions and their acts? -- I cannot remember doing that.

Will you please have a look at EXHIBIT W.70. It is in volume 12. It is the document Speak of November 1984. A (10) document found at the offices of Grassroots, Cape Town and in Benoni. Will you please turn to page no. 9.

COURT: Yes will you help the witness because my pages are not all numbered. We only numbered mine up to page 8. -- We have got page 9. We have it.

MR FICK: The last column the top of the page, "Solidarity with the people of the Vaal". Soweto Civic Association:

"We compliment the community of the Vaal triangle. You have done your utmost to teach the government peaceful ways of living together. You have responded to the (20) acts of aggression and the ball is now in the enemy's court to bring about peace."

-- Where are you reading, column?

The last column, page 9 at the top. The heading "Solidarity with the people of the Vaal". I would like to put it to you that the Soweto Civic Association nowhere calls on the people to act non-violent but they simply accuse the government for the actions. What do you say to that? -- The civic movement has always been a very very peaceful movement. We have no access to arms, to training camps, to anything (30)

like/....

like that. We have always relied on negotiation and the history I have outline so far has been of contact with those in authority, sometimes to the anger of our young supporters. We have never found the need to say to anybody that we are a peaceful organisation because we have always been and the kind of thing that was happening in the Vaal was of people who used their economic power, namely the money in their pockets, to draw attention to the disabilities by either refusing to board the buses at rates they could not afford or to pay rents at rates they could not afford. It was all very very peaceful. (10)

COURT: May I ask a question on this aspect please. Not on the peacefulness but on the contact with the authorities. Was your last contact with the authorities with Mr Louis Rive? -- No.

When was your last contact with the authorities? -- My last contact with the authorities would hopefully, hopefully, have been 1987 when the Civic Association wrote two official letters. One to Nico Malan, the other to Mr Gom(?), the town clerk of Deep Meadow, asking them to meet with us over the questions of the problems of Soweto and Deep Meadow. The meetings did not take place because the councillors, whom (20) we refused to recognise, insisted that instead of speaking to the man we know to be the source of power in that area, namely the town clerk appointed by the West Rand Administration Board, and through him by the government, should speak to us. That contact would have been towards the end of 1987. We are in fact still waiting and hoping that we will meet with those administrators to solve the rent boycott for instance.

So your attitude was you were not speaking to the councillors, you would speak to the town clerk? -- That is right.

MR FICK: Will you please turn to EXHIBIT W.74. It is in (30)
the/....

the same volume.

COURT: Page?

MR FICK: Page 5 my lord.

COURT: I am sorry, W what was it?

MR FICK: 74. It is a document with the heading "Soweto Civic Association, Annual General Meeting 1 December 1984". You know this document Dr Motlana? -- That looks like a speech I made.

Ja, do you know the document? -- I do, yes.

And will you turn to page 5. What is the attitude of (10) Soweto Civic Association? Do you want a one man one vote? -- Most certainly.

Now please look at the last column, the last paragraph.

COURT: Page 5?

MR FICK: Page 5. That is part of a speech of yourself under the heading "Organise at Grassroots". The last paragraph:

"Ours is a simple demand. One man one vote in an undivided fatherland. Nothing else will restore peace to this land. Amandla."

I put it to you again here you blame the government for the (20) violence and you threaten the government that unless they heed to your demands there will be no peace in this country? -- I am not threatening anybody. The government of South Africa has the coercive power to do as it pleases, as in fact it does as it pleases. What we are saying is that there is no peace in this land. There is a lot of institutionalised violence where our people are being killed. We say to the government that there in fact will be peace if the government becomes a representative government. It can only become a representative responsible government if there is universal franchise in (30)

an/....

and undivided fatherland. That is our demand. We are not threatening violence.

COURT ADJOURNS FOR TEA. COURT RESUMES.

COURT: Before we start Mr Fick and Mr Bizos we had a video here in court of which we have not got a transcript yet. Are you making a transcript of that video?

MR BIZOS: Which one was that my lord?

COURT: It was a funeral video.

MR BIZOS: Oh the one put in by the state of one of ...

COURT: It was very very short, actually. (10)

MR BIZOS: To the defence witness, taken from a German ...

COURT: I think so yes. I think it is 43.

MR BIZOS: Something like that. 42 possibly.

MR FICK: The one of Tembisa my lord?

COURT: Yes, although we would need a transcript of that video.

MR FICK: I will talk to Mr Jacobs.

COURT: Yes please, and then agree on the contents please.

ASSESSOR (MR KRUGEL): I think it is Daveyton, EXHIBIT 42 is it not?

MR FICK: 42. (20)

ASSESSOR (MR KRUGEL): Daveyton.

MR FICK: Oh Daveyton.

MR BIZOS: Oh yes, that is the one, I remember it now, the one in which Bishop Tutu spoke and ..

COURT: That is right, a stadium.

MR BIZOS: And the carrying out of the coffin singing.

NTHATO HARRISON MOTLANA: d.s.s.

FURTHER CROSS-EXAMINATION BY MR FICK: Did you attend a meeting of the Soweto Civic Association on 5 April 1984 at the Diepkloof hall? -- I cannot recall. I would have to refresh(30)

my/....

my memory about that. Have we got minutes of that?

Well I would like to put it to you that you were there and you called on the people present to boycott the payment of water and electricity tariffs and you told them that if you can get 500 people to boycott the payment the government would not be in a position to act against 500 people. -- Are those my words? I cannot recall ever saying to the people do not pay for water, do not pay your rent. Are you quoting my words sir?

Yes. -- I would like to refer to the exhibit you have in front of you. (10)

No, no, it is not an exhibit before court. -- I have, to my knowledge the only time I have ever said to the people of Soweto do not pay is, was in 1978 when the rents were raised and I said to the people, at least my executive said to the people do not pay that part of the rent which represents the rise because I thought it was unfair. At no other time do I recall ever saying to the people do not pay your rent.

Were you at a meeting of the UDF, a million signature campaign meeting on 7 June 1984? It was held in the Methodist Youth Centre, Central Western Jabavu? -- Again I cannot be (20) certain. I attend so very very many meetings that I cannot say that on one particular day I was at such and such a place attending such and such a meeting. I would have to refresh my memory, referring to the record of the meeting.

Now did the Soweto Civic Association, SOYCO and COSAS, work together on the campaign, the MSC campaign? -- MSC?

The million signature campaign of UDF? -- To my knowledge the million signature campaign was masterminded by the UDF and of course the affiliates would have been involved in that campaign. (30)

But/....

But did you in Soweto work together with SOYCO and COSAS on this campaign? -- I do not understand the way you put that question. I have said already that the affiliates of the UDF were asked by the UDF to participate in that million signature campaign. So it is not a question of Soweto Civic Association collaborating, co-operating with one other affiliate. It was from the top down to the affiliates.

And did you organise a blitz in Soweto, the Soweto Civic Association, to obtain signatures? -- I do not recall that my association organised a blitz but it is possible. (10)

Now Dr Motlana did you attend the June 16 commemoration service in the Regina Mundi in 1984? -- I recall that I have attended every single one of those commemoration services. So if you say in 1984 I am sure I must have been there.

Now do you recall that at this meeting there was a flag, black, green and gold, tied to something that looks like a barrel of an AK47 and it was displayed at this meeting? -- I cannot recall that particular incident but I do know that at some of the meetings I have attended some people have displayed a flag showing those colours. (20)

And something that looks like an AK47, was that also displayed? -- I cannot recall seeing something that looked like an AK47.

You have not seen anyone marching through the hall, a group of people, showing a, holding the AK47 or ... -- There was a time when a group of young people singing, chanting, walked or marched past between the speakers on the platform and the audience with I think a wooden or plastic replica of something that looked like a rifle. Whether it was an AK47 it is not for me to say. I have never handled or seen an AK47 (30)

but/....

but it did look like a wooden or plastic imitation of a gun.

And is it correct to say that at the commemoration services a lot of freedom songs are sung? -- Yes, a lot of freedom songs are sung.

And is it correct to say that the commemoration services were organised by the organisations in the townships? -- Yes, I would say the organisations in the townships would have been party to the organisation of those commemoration services.

And in Soweto it would be AZASO, COSAS, Soweto Civic Association, SOYCO? -- Yes, that is so. (10)

Can you remember this one of June 1984, whether this one was also organised by the organisations? Or which organisations? -- The June commemoration service, June 16 commemoration service has over the years become a community activity. We have had problems in the past when one organisation or another wanted to appropriate the service to itself and members of the community, including myself, have always tried to intervene to say that this is a community function. It does not belong to the black consciousness movement, it does not belong to those dubbed charterists, it does not belong to AZANYU. It (20) is a peoples commemoration service to which we will all belong, we will all attend. It will not therefore be correct to say that one particular organisation or organisations organised the get together.

Was it then agreed that all the organisations together organise these commemoration services? -- Together with people, with the people, with the churches.

Ja. -- All of us together. I would not want to name any particular organisation as being responsible for the organisation of the commemoration service. (30)

Now/....

Now did you attend the AZASO 1984 annual congress held in Orlando, in Soweto, on 28 and 29 June 1984? -- Again I would have to refer, refresh my memory by referring to the notes and minutes of that meeting. I cannot remember.

COURT: What is your date?

MR FICK: 28 and 29 June 1984.

ASSESSOR (MR KRUGEL): Where did you say it was held Mr Fick?

MR FICK: At the Orlando YMCA hall, Soweto. It is a meeting where Kate Mbuweni, do you know Kate Mbuweni? -- I do not know Kate Mbuweni. (10)

Benedicta Monama? -- I know Mr Monama.

Albertina Sisulu? -- I know Mrs Sisulu.

Amanda Kwadi? -- I know Amanda.

Dorothy Nyembe? -- I know Dorothy Nyembe.

C.1437 It was a meeting where they spoke. Were you present there? -- I cannot remember. I would have to refresh my memory.

Now is it correct to say that the Soweto Civic Association decided to support the boycott of the Coloured and Indian elections? -- That would be true. You mean the elections (20) under the new constitution? -- Correct.

Did you attend a meeting of 28 July 1984 of Soweto Civic Association held at Wits University? -- A meeting of?

Soweto Civic Association. -- At Wits University?

Yes. -- Again I would have to refresh my memory by referring to the notes about the meeting.

It is a meeting where Mr Tom Manthata, accused no. 16, was present as well as Mr Isaac Mogase, Thami Mali and Siphwe Thusi.

COURT: Yes, now you can all spell it for record purposes. (30)

You/....

You have rumbled through a list of names just now. I let you go but not this time.

MR FICK: As the court pleases, Tom Manthata's surname, M-a-n-t-h-a-t-h-a. Isaac Mogase, the surname is M-o-g-a-s-e. Thami Mali, T-h-a-m-i and the surname M-a-l-i. Siphwiwe, S-i-p-h-i-w-e and the surname is Thusi, T-h-u-s-i. It was a meeting held in support of the boycott against the coloured and indian elections. -- Did you say that the meeting was organised by the Soweto Civic Association?

Correct. -- Will you not allow me access to the minutes(10) of the meeting please?

Can you remember whether you were there? -- I cannot remember.

Were you present when the UDF area committee was launched in Soweto? -- I cannot remember attending such a meeting.

Did you attend the UDF area committee meeting on 21 October 1984? -- I cannot recall attending such a meeting.

It is at this meeting that Mr Oupa Monoreng called on the people to establish a parents committee in Soweto. -- I cannot remember that meeting. (20)

Now was there a bus boycott late in 1984/1985 in Soweto? During that period? -- I cannot recall. There have been bus boycotts at different times, different routes, but I cannot remember that particular date.

Thank you my lord, I have no further questions.

RE-EXAMINATION BY MR BIZOS: In relation to the conference on education in Durban do you recall whether any teachers organisations were represented at that meeting Dr Motlana? -- Yes there was one teacher organisation that I can remember.

Which one was that? -- ATASA. (30)

Do/....

Do you know whether or not they are affiliated to the UDF?
-- I do know for a fact that they are not affiliated to the UDF.

Now I do not know whether you are aware that you have told his lordship, I think in a question which was asked, that the organisations that attended that conference were all affiliated to the UDF. If you did say so did you intend to say that everybody there was affiliated to the UDF? -- I must have slipped up there because in fact there were many, very many other people who did not come from organisations like (10) that who attended this meeting and who were clearly not members of affiliate organisations.

What sort of bodies? -- No I am referring to individuals.

Individuals? -- Yes.

And were there parent bodies from any, from various areas?
-- I am not sure. I will take it that there may have been.

You told us that you arrived, that you were at this conference which lasted the whole night? -- That is so.

And were resolutions passed at the end of the conference?
-- Yes there were resolutions passed at the end of the con- (20)
ference.

They are already as exhibits before his lordship so that I do not want to ask you any questions about it. Did you support the resolutions that there were taken at the end of the conference? -- Yes we were generally in support of those resolutions.

If you as a representative of the SCA, did you advocate any particular point of view in relation to the school boycott?

COURT: Where?

MR BIZOS: At the conference. At the conference did you (30)
advocate/.....

advocate any particular attitude in relation to this school boycott? -- The meeting that lasted between 18h00 and 06h00 was taken up mainly by arguments for and against the return of children to school and we from the Soweto Civic Association, together with other adults from other parts of the country argued through that night to persuade our children to go back to school. It was a very tense meeting. Because lots and lots of youngsters did not want to go back to school. We succeeded finally, towards the early hours of the morning, in getting general agreement that there would be a return to school. (10)

Yes. Leaving aside schoolchildren or students, and possibly their organisation or organisations from 1984 to the time that these resolutions were taken in Durban did you know of any organisation of adults that advocated the boycotting of schools as a principle, as a tactic? Did you know of any such organisation having such a policy? -- I know, I knew of no such organisation.

You say that it was a tough meeting at which the students or children were putting the opposite point of view. Was there unanimity among them or were there divisions among them? (20)
-- There as no unanimity even among the students themselves and that is what actually helped us to persuade them finally to return to school.

Can you remember from which areas the bitter einders or those advocating for the continued boycott of schools came from? -- I do not know whether I should but I remember this very well because I sat in the midst of youngsters from the Kimberley, Mafikeng area and they were determined that the government had not made any concessions at all and they were not prepared to go back to school. (30)

ASSESSOR/....

ASSESSOR (MR KRUGEL): Kimberly and? -- Not Mafikeng, and Kuruman, all the desert area from which I really did not expect such opposition to return to school.

MR BIZOS: Yes. Do you remember whether you were present at the time you were elected to the Transvaal Executive of the UDF or were you were elected in absentia? -- Thinking back on that I think I was elected in absentia because I only got to know about my election much later.

Were your views known in relation to the UDF at the time, that the executive was formed? -- My views were known and (10) that is why I suppose I was elected to that body. The executive of that body, the Transvaal.

Now the Soweto Civic Association you have told his lordship that you campaigned against the elections in 1983 and you campaigned, or became involved in the million signature campaign. Do you recall whether you became involved at the request of the UDF in any other campaigns to go out and achieve a specific thing, a specific object? Were you called upon to, or requested to do anything else except these two that you have mentioned? -- I cannot remember any other (20) except those two I have already mentioned.

Now it was, a passage was read to you from EXHIBIT V.19(1).

COURT: Sorry?

MR BIZOS: V.19(1).

COURT: 19(a) or (b).

MR BIZOS: 19(a), I am sorry my lord mine is 1.

COURT: Page?

MR BIZOS: Page 2 my lord. Mr Aubrey Mokoena's words were read to you that:

"As we pray with our eyes wide open as revolutionaries." (30)

I/....

I just want to read on:

"And as we do that we hum one popular tune in the struggle, Senzeni na."

And then he continues to pray for others. Now how, this was put to you as evidence, as a call for a violent revolution. What do you say about that in that context? -- I have already said that the use of the word "revolution" or "revolutionaries" does not necessarily connote resort to violence. That to us in our public speakage, when we speak of revolution or the revolutionary we mean fundamental change. (10)

And one of the speakers, I think it was Mr Webster, used the word "illegal" and then went on "illegitimate government" and you were asked by my learned friend and his lordship about, well it was merely Mr Fick. His lordship just wanted confirmation of what you had said.

COURT: Was that in this exhibit?

MR BIZOS: No it is in 19, V.19(b).

COURT: Yes very well.

MR BIZOS: Perhaps I should just find it.

COURT: No it is not necessary, I remember it. (20)

MR BIZOS: Yes, that the one word follows upon the other.

COURT: The first word is illegitimate and then it is illegal.

MR BIZOS: No is it not the other way around my lord?

COURT: No you must look it up first.

MR BIZOS: Yes illegal, and then it goes on to say illegitimate.

COURT: The page is?

MR BIZOS: The page is 19.

COURT: Yes thank you.

MR BIZOS: Now, do you pay your taxes Dr Motlana? -- I do.

And do you consider, do you consider it a duty to do (30)

so?/....

so? -- I do.

Yes. Well what did you mean when you said that you did not have a problem with the word "illegal" in the context of the passage that was read to you? I want to read it to you again:

"Tragically through the militarisation of our society means that we have to spend more and more money to defend this illegal illegitimate regime."

What did you mean when you said that you had no problem with that? -- Thinking back on that, those two words I do have a problem. I think we all agree that one cannot describe the (10) South African government as illegal. I think despite a flawed constitution the government must be regarded as legal but most certainly as illegitimate.

Yes. Now when the words of Mr Gumede were read to you on EXHIBIT ...

COURT: Well you dealt with 19 and thereafter was dealt with 25. So it is probably in 25.

MR BIZOS: Probably in 25, as your lordship ...

COURT: V.25.

MR BIZOS: V.25, where, I will just find it one moment my (20) lord. Yes it is on page 26 my lord. A passage was read to you and my learned friend stopped short. I want to read this passage to you to its logical end:

"The more and at least if you join and go and recruit others and conscientise others you will have done something that may result one day the voice of african people in South Africa. In Soweto first rising with a roar which Pretoria cannot ignore and say 'bring our leaders back. Call a conventicn, a national convention where our leaders are going to speak for us'." (30)

Now/....

Now this question of a national convention is this a call that was made from time to time at the meetings?

MR FICK: My lord this, I object. This is new evidence, about the convention.

COURT: It is new evidence Mr Bizos. I mean the passage speaks for itself. It has to obviously be read in context. But, and that we will do but this question about a national convention is the opening up of a new field of enquiry.

MR BIZOS: As your lordship pleases. I was merely going to ask whether it was going to be done by peaceful or violent means (10) because the cross-examination was directed to that direction. But I will leave it at that. When did the rent boycott, when did people stop paying rent in Soweto Dr Motlana? -- June 1986.

COURT: I am sorry, June? -- 1986.

Did it start then, the rent boycott in Soweto? -- Yes.

June 1986? -- June 1986.

And is it still on? -- It is still on.

MR BIZOS: You were shown EXHIBIT AX, those are the handwritten notes of Mr Manthata, accused no. 16, your secretary. You recall the form that you were shown. (20)

COURT: AX.14 Mr Bizos.

MR BIZOS: As your lordship pleases. Now AX.14, is this the form that your minutes were brought to your meetings Dr Motlana, in this way that they are found in here? -- No. We, I did remark upon the fact that they were written on letterheads of the Metropolitan Insurance Society. We do have our own letterheads.

COURT: Yes but do you have your minutes typed or do you have your minutes written out in longhand? -- They would be written out in longhand but at various times when we had a little (30) money/....

money we would employ a typist and she would type them. But at this particular time I do not think we had a typist. Finally they would be written up in the proper form.

MR BIZOS: In a minute form. And would they be signed at the next meeting? -- They would have to be signed. Otherwise they are not a true record of our meeting, they are not our minutes if they are not signed.

Yes. Now you were referred to page 10 of EXHIBIT AX.14 and that is at the time when there was some, there was talk about the school boycott Dr Motlana. Now in the middle of the (10) page - this portion was not read out to you:

"COSAS-SCA relationship not part of the brief."

Now does that remind you of anything? -- I am afraid it does not. Unless it refers to the boycott campaign. No it does not ring a bell at all.

Did you have any problems in your relationship between COSAS and the SCA? -- There were problems.

Were you in the SCA in a position to direct them or control them in any way? -- We were not in that position.

Finally you told his lordship that you have attended (20) the commemoration services, practically all the commemoration services that have been held in Soweto, presumably a year after 1976 and you were asked by my learned friend whether freedom songs, or in your words whether freedom songs and chants were sung during this, during a particular one. Were such songs sung throughout this period in various forms Dr Motlana? -- They were.

And were slogans shouted at these commemoration services throughout this period that you have attended these ... -- They were. (30)

And/....

And there were banners and placards used throughout this period? -- They were used.

Was there a police presence in the immediate vicinity of Regina Mundi on occasions on which the services were held throughout this period? -- Almost all of them. I recall that there were one or two when the police stayed away and I recall so very clearly that those were the most peaceful. When the police were not there absolutely nothing happened.

So you as a prominent person in Soweto and as the president of the Soweto Civic Association, from 1977 onwards were (10) you ever approached and told that the singing of these songs or the unfurling of banners were of something unlawful that had to be stopped or not? -- Not once was I ever so instructed, even when once after my speech at a commemoration service - I think it was in 1984 - I was hauled out of the hall to Protea. All we discussed with the senior police officers there who threatened me with mahem was the tenor of the speeches but never about slogans or the chanting or banners.

COURT: When were you taken to the police station? -- I think it is either 1983 or 1984. (20)

At the commemoration ... -- At the commemoration service.

So the police did have complaints about the commemoration service? -- Oh no just the, one or two remarks I had made.

MR BIZOS: That you personally had made? -- That I had personally made. But nothing else about the meeting itself or the banners.

Was that immediately after you had spoken that you were taken in and exception was taken to your remarks? -- Exception was taken to some of the remarks I had made.

Were they present at the meeting, the police? -- It (30)
seems/....

seems to me that there was a direct communication between somebody sitting in the audience and the police because when I got to Protea, fifteen minutes after I had spoken, they had a transcript of my speech. I was impressed.

No further questions.

NO FURTHER QUESTIONS.

COURT: Now Mr Bizos I know what your problem is. Will we have this same problem again in future? We cannot, as far as each witness is concerned, accommodate it.

MR BIZOS: I am not unmindful of this but I can only assure (10) your lordship that we are trying our best but where the reserve has dried up it is not possible to make contingency arrangements as easily as at the time when ...

COURT: How many witnesses do you have left?

MR BIZOS: Well if we can eliminate about six or seven in relation in which I hope to get admissions then there will be two more witnesses taking more than an hour or two in-chief and then there may be five or six with the sort of, the type of evidence that your lordship had from Archdeacon Wilson. That is if we cannot get admissions, further admissions, (20) about five or six of those. So there are not more than about two major and five or seven of the small ones.

COURT: Well can you not bring all of them together on one day so that we can start and get through them? If we are going to wait for each and every one of them a day we will be two more weeks.

MR BIZOS: No that I do not want to do and it would not be possible to expect your lordship to condone that. I must confess that I think that Professor Daws Dekker will probably be the better part, if not flowing into Friday because next (30) week/....

week they have a big conference there and he could not make it. So that will finish him. But ...

COURT: Well will you provide for a reserve, for a back up?

MR BIZOS: For a back up on Friday but that is where I have problems.

COURT: Well what about a back up tomorrow? Why space him? why can we not have the back up ready tomorrow afternoon?

MR BIZOS: If I can I will have it.

COURT: Yes, otherwise we will run into the same problem again Mr Bizos and it may well be that his cross-examination is (10) short. I do not know, I do not know what he is going to say.

MR BIZOS: It may be and we will try our best. But what I want to give your lordship an assurance is that I will try and have everybody marshalled up for Monday morning, most certainly, because the weekend will give us an opportunity. There is also, we also chose specifically to call Professor Daws Dekker tomorrow because tomorrow being June 16 we sense other problems which your lordship may imagine in relation to transport of some of the witnesses. So we do try and arrange, so if tomorrow is going to be a day in which it will be (20) difficult to communicate with people living in the black areas I may not be able to get a back up.

COURT: But now what is the progress so far as far as the exclusion of formal evidence is concerned? How far have you got?

MR BIZOS: Well I have given four statements to Mr Jacobs, four draft statements, from which, they are people whom I hope it will not be necessary to call. There is one other which is a mere formality in relation to entry and exit from the Republic of South Africa and we are going to show them the, (30)

I/....

I am hoping to avoid having to call evidence in regard to that because it is on a passport so that we should not have any difficulty about that. There is also the publication and the circulation figures of the newspapers that have been handed in. Not necessarily to prove the correctness of the contents but the fact that the publication has taken place and how wide the publication was. We have already given the first part of that information and they are checking and ...

COURT: Well it would not matter whether it is 500 000 or a million is it? (10)

MR BIZOS: It does not really matter but we thought that we may say in their thousands, or wide circulation or something like that but anyway the state is checking that. The state has had some difficulty but I told them what the difficulty need not be because there are about five or six, apparently, of the newspaper cuttings that we have produced that they cannot find in the original newspapers. So there is a bit of a delay about that but I think the explanation is that your lordship will recall that there are some strips against, on the text. They represent the number of the editions, whether it is (20) the first, second or third edition. So I directed them to that so that they must look at the strips in order to find out what edition it is. And that is where we stand.

COURT: Yes, that is roughly our position. Nou mnr Fick wat is the prognose van julle? Gaan julle aansoek doen om 'n getuie te roep of nie?

MNR FICK: Edele mnr Jacobs werk daarmee. Ek weet werklike nie of dit sal gebeur nie. Ek kan op die oomblik nie sê nie.

HOF: Nou maar gaaf. Ek bedoel ek hoop dat julle almal met mekaar saam werk sodat ons formaliteite kan uitskakel. (30)

COURT ADJOURNS UNTIL 16 JUNE 1988.