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SAAKNOMMER: CC 482/85

DELMAS

1987-02-04

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

COURT RESUMES ON 4 FEBRUARY 1987.BAVUMILE HERBERT VILAKAZI: d.s.s.

FURTHER CROSS-EXAMINATION BY MR JACOBS: Mr Vilakazi we stopped yesterday when you said that directly after you that another speaker was announced. Then we came to the question about Mr Masenya.

COURT: Let us just recap. We are busy with which meeting?

MR JACOBS: 26 August 1984. And we were busy with the order of the speakers at that meeting. Now I will ask the question again, after you spoke did anything happen at the meeting, (10) otherwise than the ordinary course of the next speaker being announced? -- There was singing.

What did they sing? -- They were singing "Hlanganani Basabenzi".

Yes and then after the singing? -- That was Mrs ...

Did they only sing one song? -- That is so. Then Mrs Mokoena was called to speak.

So after you made your speech there was singing and then Mrs Mokoena spoke? -- That is so.

Yes, who introduced her? -- It was Mr Nkopane, the (20) Chairman.

Yes, and after she spoke? And after she finished what happened? -- Well there were people who wanted to speak who raised their hands and one of them was given a chance to speak.

Was there anything stirring said by Mrs Mokoena that caused people to put up their hands to speak, or why did they want to speak at that stage? -- It is because the Chairman had informed the meeting that in between speakers if there were people who were keen to speak or to ask questions they were free to do so and they could do this by indicating through (30)

the/....

the raising of their hands.

So they were allowed to ask questions only, in between?

-- And to speak.

Does it mean they can make speeches as well? -- That is so.

How did they indicate that they want to speak at this stage? -- By raising their hands.

Yes. And who was the first speaker after Mrs Mokoena then? From the audience? -- After Mrs Mokoena the first speaker was Mr Masenya. (10)

He was the first speaker? -- From the audience.

Yes and what happened when he was given a chance to speak? -- Well he stood up from where he was, close to the platform, about two seats away from the platform on the left-hand side of the hall.

Two rows away or two seats? -- Two rows away. Then he thanked the opportunity...

Did he go to the platform? -- No he stood there, he spoke from where he had been seated. He thanked the opportunity that was given to him to speak and he introduced himself (20) as Masenya from Zone 7 and then he said he supported the issue of the rents not being increased. He was supporting the people who were complaining that the rent increase was too high. Then he wanted to say something about the councillors but ...

How do you know he wanted to say something about the councillors, how do you know what is going on -- Because he mentioned councillors.

What did he mention about ... -- Because I can say he said to the effect that "Now about councillors", if I can (30) remember/....

remember still well.

Yes? -- Then it was at that stage where a woman seated on the right-hand side of the hall towards the back, about the middle of the hall, raised her hand and stood up and called upon the chairman to please ask Mr Masenya to address himself on the problems of the residents and the rent issue and not about the councillors. Because she said that she feared that people who were close to councillors would come to such meetings and speak ill of councillors while they themselves are party to what the councillors do to the community and as such she (10) was just appealing that the chairman asked Mr Masenya to limit his speech to the rent and the general problems in the township only. Then she said ...

And did the chairman, did he stop Mr Masenya of further speaking about the councillors? -- No when this lady stood up to speak Mr Masenya gave her a chance to speak by sitting down himself. Then the chairman said "Okay let us give him a chance then because we had already given this gentleman a chance to speak". Then when Mr Masenya was not standing up then there were calls like that he must stand up and speak (20) from amongst the audience. There was some kind of debate. Others say also let him speak but not about councillors. Others say let him speak, let him speak. Then it was at that stage that the chairman tried to calm the audience down and when I saw that apparently he is not succeeding I went up front close to the chairman and I appealed to the people to calm down to give the chairman a chance. So that our programme should run smoothly. Then when the audience was calm the chairman then called back onto Mr Masenya to speak. It is then that Mr Masenya ... (30)

What/....

What did he then call to speak on what, what did he say to him? -- No he did not say anything to him. He just said "Mr Masenya it is still your time to speak, it is still your opportunity to speak".

Are you sure this is what happened there? -- I am sure that is what happened there.

And after that when he refused, you said he refused to speak? -- Then Mr Masenya indicated with his hand that no he will not be coming up any more. That is when the chairman had to go and move on to the next speaker. (10)

And what about the other people who wanted, you said people wanted to speak and there were other hands. What about the other people then? -- Well what I am saying is I was using a general term that other people wanted to speak there, during speakers, I mean in between speakers. I said among the people who wanted to speak during the period when there were no speakers from the platform was Mr Masenya. So I would not know what happened to the others at that stage.

Did the Chairman not give the other people then a chance to speak? After Mr Masenya, from the floor? -- Well I can- (20) not remember if he gave them a chance but the person I heard him calling was Mrs Mokoena.

So there were no other people ... -- Mr Malindi, I am sorry. I am sorry it was Mr Malindi.

So although other people wanted to speak after, you say then he called ... -- Well after Mr Masenya had indicated that he is not going to speak I did not see any more hands that were still indicating that people still wanted to speak.

But I understood your evidence to be before Masenya spoke, at that stage there were several hands of people wanting to (30) speak?/....

speak? -- Yes after Mrs Mokoena spoke and after other speakers had spoken there would be several people who wanted to speak or ask questions who would raise their hands.

Mr Vilakazi . . . -- In this case I indicated to Mr Masenya. Now after Mr Masenya there were no more hands so I could have taken it from there that the people were not going to speak then.

Mr Vilakazi at the time when Masenya indicated with his hand that he wanted to speak you said that there were several people at that stage indicating they wanted to speak? -- That is so. (13)

So what happened now, did the Chairman ask the other people who put up their hands that they must speak now? -- Well that is what I am saying, that I cannot remember if the chairman did ask them to speak because I myself realised that there were no more hands protruding. So it might have missed the chairman that there were other people who wanted to speak at the time.

So you said then the chairman after Masenya did not want to speak he called on Mrs Mokoena to speak? -- No he called on Mr Malindi to speak. (20)

Are you sure that is what happened at this stage? -- This is what I remember happening at that stage.

Are you sure? Did you instruct your counsel on these aspects? -- Normally where there is a dispute in evidence I do give instructions to him.

Yes you deemed it necessary . . . -- . . . To the advocate.

. . . . in court here in your evidence-in-chief to specially point out to the Court that you are the person that instructed counsel on this matters? -- On this matters?

Yes this incident . . . -- I personally did, together (21)
with/....

with other people would give instructions to the, to counsel.

Is it correct that in your evidence-in-chief you found it necessary to specially draw the attention of the Court to the fact that you are the person who instructed counsel on this issue of Masenya. -- Yes when the question of a person calling Mr Masenya to sit down when he spoke for the first time, I gave instructions.

Yes. When did, I just want to clear up - I will come back to this. When did Masenya leave the hall? -- I did not see Mr Masenya leave the hall myself but it could have been well (10) towards the end of the meeting or at the end of the meeting itself.

If you did not see him leave the hall how could you say that? -- Because I know that during the meeting I still saw him in the hall.

You say that his evidence that he left the meeting just as Edith and Esau Raditsela arrived at the meeting is false then? -- Then it would have been at the end, towards the end of the meeting because there was only one item left at that time. (21)

COURT: The question is is his evidence false that he left the hall at the time when Edith and Esau entered? -- I did not see him leave the hall so I cannot say that is false.

MR JACOBS: And his evidence as well that he only tried to speak at one occasion and not at two occasions, that will be false also? -- That will be not true.

I am putting it to you that your evidence now that, that your evidence is false evidence on this matter because you gave other instructions to your counsel when Masenya gave evidence and he was asked about this incident. -- Well (30)

there/....

there were a number of the accused persons who were present at that meeting and we always give instructions on matters as we know them to have been and the facts that we know and if I did not give instructions or I was not called upon, there was nothing calling upon me to say I saw Masenya leave later when Edith and Esau came.

COURT: Just a moment.

MR JACOBS: Mr Vilakazi....

COURT: Just a moment Mr Jacobs.

MR JACOBS: In your evidence-in-chief you mentioned that (10) when Mr Masenya was, after this woman spoke, that there were rumblings. What do you mean by there were rumblings.

COURT: Could we just get clarity. Do you know the name of this woman? -- Yes.

What is her name? -- Her name is Maria Dhlamini.

Maria Dhlamini. Well let us refer to her as Maria Dhlamini then.

MR JACOBS: It is Maria Dhlamini who intervened there when he first stood up, is that correct? -- That is so.

COURT: Yes, now what was the question? (11)

MR JACOBS: Now you told the Court in evidence-in-chief that at that stage, after she interrupted, that is Maria, there were rumblings in the audience. What do you mean by rumblings? -- I was trying to describe the situation where other people, you distantly hear encouraging Mr Masenya to speak and others say okay if he does not want to speak now he is free to sit down. And of course those would be people who would be close enough to one for one to hear. But when many people are exchanging similar views in the hall one would simply describe it as rumblings. (12)

Did/....

Did the people jump up when they were rumbling? -- No.

Were there any shouts when they were rumbling? -- There were no shouts.

Was the audience agitated? -- Not at all.

Were they unruly? -- No they were not unruly.

So why was it necessary for you then to intervene? -- Well because when the chairman was asking the people to be calm so that we can continue with the programme the rumbling was not stopping. You find a section stopping, you then find that it again rises again just like that. So when I came to assist (10) I took it people at the back of the hall were not reached by the chairman's voice.

Why not? -- Because during the rumblings the chairman, being a soft spoken person, people could not have heard him well.

ASSESSOR (MR KRÜGEL): Well to some extent Mr Vilakazi that also applies to yourself in court. -- I do not understand the Learned Assessor.

MR JACOBS: I put it to you what happened at that stage was that Masenya was threatened by the woman and the crowd? -- That did not happen as such, the allegation is not true. (20)

Will the Court bear with me a minute, I just want to get the record. I will refer to page 625 now of the record. I just want to get the volume.

COURT: Volume?

MR JACOBS: Volume 13.

ASSESSOR (PROF JOUBERT): What is the page number?

MR JACOBS: Page 625.

COURT: Is it Masenya's evidence?

MR JACOBS: Masenya's evidence. I will start on 625 the third paragraph, it started with "You have told us", now (30)

I am going to read what was put to Mr Masenya by your counsel.

"You have told us that those are not your words but let us try and agree at least on a portion of the happenings. Very shortly after you got up to speak did a woman raise a point of order, an objection so to speak? -- She just emerged from amongst the people there in the meeting and said the following words, referring to me, that I am one of the councillors, I am supposed to be killed."

What do you say to that? -- That is false evidence.

Did she refer to him as one of the councillors? -- She (10) said he must not come and speak ill of councillors when he in fact was one of them.

And then it continues:

"You are one of the councillors who is supposed to be killed. Now you are sure that that is what she said?

-- That is what I heard."

And then Mr Bizos put it:

"Now listen carefully what I am going to put to you, this woman, so that we cannot have any difficulty with identification could you describe her for us please, the (10) woman that said you may be killed, the woman that interrupted? -- She is light in complexion, thickset."

And then Mr Bizos asked her approximate age?

"-- I estimate her to be about 35.

May I just have a, I just want a moment in order to see that we are talking about the right person. Yes it would appear, although she will make claim that she is a bit younger but we do not have to worry about that. It would appear that the description corresponds with Mrs Dhlamini." (11)

And/....

And then he put it like this:

"Now do you recall that she said to the chairman that you, the speakers, had to first disassociate yourself with the councillors? -- That one I do not know."

So do you agree that that is quite a different version from yours, that he must first disassociate himself from the councillors? -- I do not see it as different because when she said Mr Masenya should address himself to the rent problem only and not to come to be against the councillors when she in fact, when he in fact is one of them. I understand it to be saying (10) that he must disassociate himself with the councillors if he has got to ...

But that is not what you ... -- .. to expose them or to speak ill of them.

But that is not disassociation and that is not what you told the Court this morning? -- Well that is my understanding of that.

I want to refer you also to page 2068. That is Volume 43. That is the evidence of Mr Mahlatsi. This disassociation is made more clearly in what is meant here and I would like to (20) read to you from page 2068 of the record and what was ...

COURT: 2038 or 2068?

MR JACOBS: 2068 and where it starts "MR BIZOS":

"MR BIZOS: No it is disputed My Lord. I am sorry I should put it specifically that the audience did not, neither the audience nor the woman said that he must be killed but that he should renounce the council system before he would be allowed to speak."

What do you say to that? -- What I am saying to that is that when it was put to Mr Masenya on disassociating himself, (30) that/...

that word "disassociation" was very broad and I would see him also giving the implication that he was called upon to renounce the councillors before he could speak further.

And Mr Mahlatsi ... -- That is now in putting across what the response of Mrs Dhlamini was and what other people also were feeling like at that stage.

Mr Vilakazi you were the person instructing your counsel?
-- We were instructing counsel.

No you, you personally? -- We were instructing counsel.

Why do you not want to admit that you are the person (10)
who instructed your counsel? -- Because I was not alone in
instructing counsel.

Did you, I referred to it earlier that you deemed it
necessary to bring to the Court's notice that you are the
person who instructed counsel? -- On that particular issue.

Yes that is the same issue. -- To that particular wit-
ness.

To that same issue? -- But now I would not know why there
was choice now of what went wrong, I mean what happened to the
extent that instead of mention of disassociation then it (20)
is renouncing, that comes in at this stage.

Do you agree that there is quite a difference between the
evidence given by you and what was put to the witness, that
he should renounce the council and not that he must not speak
about, must not speak ill about the council? Do you agree there
is quite a difference in that? -- There is no difference in that
when we say he must not speak ill of a person whilst you are
in cahoots with that particular person. It does imply that you
must renounce your association with that person.

What is the meaning of "renounce" do you think? -- By (30)
renouncing/...

renouncing I understand the meaning thereof to be to remove oneself from.

And the second point here is that there is a difference, do you agree, if it is now, you said that he was given a chance to speak without any demands put on him before that, that is your evidence here in this court? -- That is so.

But in this statement it was put to the witness that he must renounce the council before he will be given a chance to speak? -- That record does not say the chairman did that. I am sure that record will not say so although I do not (11) have the record, it may be difficult for me to keep track but I am trying by all means to remember what the situation was and I do not think that the record says the chairman said that.

Mr Vilakazi do you say that this record is wrong then? -- Call I have, I must have guarantee that the words are attributed to the chairman of that meeting.

COURT: This question of renouncing is what allegedly, either somebody in the audience or it seems more probable Mrs Dhlamini said he should renounce the council system before he would be allowed to speak. As I read the passage it is not attributed to the chairman. -- Thank you My Lord. As such I would say what I have said about the chairman giving Mr Masenya a chance is true. (20)

MR JACOBS: But do you agree that the wrong version was put to Mahlatsi, the witness here? -- I do not see it as a wrong version. I saw it as use of words.

You see and there is a third point in this thing, and it was not that he must not speak ill of the councillors, the third point is that he must renounce the council system, not councillors. What do you say to that? -- With reference (30)

to/....

to the council system I see it tallying around the renouncement of council system, I see it tallying with what Mrs Dhlamini was putting across, because she was referring to the councillors themselves and the council system would always be referred to as councillors in the area.

So are you now saying the councillors are equivalent to council system? -- That is so.

Do you agree there is a vast difference between renouncing the council system and not speak ill of councillors? -- I do not see any difference. My understanding ... (10)

And is it then correct that this ... -- ... of the two words and what happened there.

Is it correct that that was put here is the version given by you to your counsel at that time? Do you agree to that? -- Can I have the question again?

What was put to this witness and Masenya was the version given by you to your counsel at the time when he gave evidence, or even before that? -- I am one of those people who gave instructions with regard to this evidence.

So I put it to you that you are altering your evidence (20) as the occasion suits you in this court? -- That is not true.

And this incident of the two speakings, and the two times that Mr Masenya spoke or tried to speak is a fabrication to suit your evidence? -- That is a false accusation. I was at that meeting, this is what I saw happening at that meeting.

Now if you were at that meeting I put it you you cannot explain this disparity in your evidence to the court and what was put to the witness.

COURT: The witness says that there is no disparity. Whether there is a discrepancy or not we will decide eventually (31;

when/....

when we have heard argument on it. Mr Jacobs a point does not become better and better by repeating it over and over. Either it is a good point or it is a bad one.

MR JACOBS: As the Court pleases. You said after this incident with Masenya the next speaker was announced, that was accused no. 5? -- That is so.

Now can you tell the Court precisely what did he say? -- What I remember accused no. 5 saying to that meeting was that he was happy now that the people in Sebokeng were meeting around their problems. (10)

Mr Vilakazi I would like you to speak a little louder. I cannot hear you, you are speaking very softly and there is a machine running behind me, I cannot hear you. Please? -- I have this difficulty that I have a slight headache which I do not know, may be caused by the lengthy talking for the past twelve days and as such at times it becomes difficult for me to raise my voice because it affects my system.

COURT: Very well. Well you continue as best you can and if we have that difficulty Mr Jacobs I suggest you move nearer to the witness and join the defence team. (11)

MR JACOBS: My Lord I have got a lot of documents around me to refer to.

COURT: You can use theirs. But we will go along as best we can.

MR JACOBS: Otherwise we can ask the interpreter to repeat what he is saying sir because it is quite ...

COURT: No that will be, yes you could if you have that difficulty but let us see how far we get. Otherwise you can put off the machine if it troubles you too much but then you will make us all suffer and not yourself alone. (12)

MR JACOBS:/...

MR JACOBS: I will try and I will ask him every time if I cannot hear, if he is too soft. Okay I interrupted you. I am sorry but I had cause for it. Will you go on then and tell the Court what did accused 5 say to the meeting? -- I remember Mr Malindi, accused no. 5, when speaking he thanked the people of Sebokeng who he referred to as parents at that meeting for coming together to find ways and means of dealing with their problems. Then he mentioned that he had attended a similar meeting called by the Evaton Ratepayers Association in the morning where the people of Evaton were discussing their (10) problem of their land being threatened by expropriation and he spoke about the deliberation, he said he heard of people in Evaton talking about their deliberations throughout the years to save their land and the subsequent legal action that they tried to engage in defending their properties, and he said he was happy that the parents were coming together and now it means that parents would be able to look into their problems as residents and also into the schooling problem where the parents could play an intervening role during conflict situations between the scholars and those in authority, and he (20) referred to school crises in areas like Pretoria where that was there. Then he furthermore indicated that with the rent increase he himself as a young person, as a youth, and the other youth were affected by these rent increases, particularly those still at school who also will have their schooling affected when the general family budget is affected by the rent increase.

Yes? -- That is what I remember of his speech.

The most important part you cannot remember? Did he say anything about a stay away? -- Well he further spoke about (30) the/....

the other meeting that he had attended the previous day where...

So you can remember that? -- Yes I can remember that.

Now tell us about that? -- He had attended the previous meeting in another zone, in Zone 13, where parents had come together also to look into the way and means of solving their problems and at that meeting some resolutions were passed to the effect that (1) the increase that was to be introduced at the beginning of September was not to be paid, and (2) that there should be a protest stay away on the morning of 3 September and that mass rallies would be held in protest of (10) the new rent increase.

COURT: Is that all? -- That is what I remember.

MR JACOBS: Did he say anything about, did he only mention it like you mentioned it now or did he elaborate on when he mentioned the different resolutions? -- Well he just mentioned them as he said he heard at that meeting these resolutions that were reached where this and this and this, and he just named them just like that.

Short and sweet like a protest stay away to be held on 3 September? -- I did not get the question? (20)

Did he just put it short that a protest stay away was to be held on 3 September, that that was a resolution? -- That is so.

Did he ask, did he tell this meeting that he is broaching this resolution in order that they must discuss it at that meeting? -- No, I saw him as merely a person who was recalling on what transpired at meetings he had attended, meetings which were similar in that people were discussing their problems in the township during that particular weekend.

COURT: Did he not take up any attitude as to what this (30)
meeting/....

meeting should do pertaining to those resolutions? -- I cannot say he had particular attitude because when a councillor, a taxi driver, a taxi owner, asked him saying that during times of questions immediately after he had given the speech, a taxi owner enquired and said now if you Malindi say that on that day there should be a stay away now what should happen to us, we the taxi people. In response accused no. 5 made it clear to the meeting that these are not my suggestions but I was merely looking back at what happened at the other meeting.

Yes? -- So he was basically just informing this meeting (10) of what transpired at another meeting. That is how I understood it to be.

MR JACOBS: Did he say anything else in answer to this taxi driver, or did he stop where you stopped now? -- No what he said again is that but in all events he would appreciate it that if the taxi drivers give, the taxi owners give their drivers a day off on that day it means that they also, the drivers and the owners, will be in a position to participate in the stay away as residents.

But now how does that tally with your previous answer (20) that he did not take up any attitude on the resolutions? Your answer now seems to indicate that he was in favour of the same sort of resolution being passed at this meeting, that is a stay away? -- That is now, that came up when he was answering to the questions but the question was now when he read these resolutions did he signify any attitude or did he imply that he had a particular attitude on the resolutions.

MR JACOBS: Is that all that he said in his speech? -- Well he said then if the stay away is agreed upon by many people and many people participate like the taxi people will also (30)

participate/....

participate and their drivers also participate, then it means there will be, the stay away will be a success itself.

COURT: Did he say "If we all participate the stay away will be a success"? -- That is so.

MR JACOBS: So he was, was he appealing to the audience there to participate in this stay away? -- He was not appealing to them to participate but he was answering to a person who apparently did not know what to do, whether to be in the stay away or to be not in the stay away and he was explaining that the stay away, if we stay away it is a call to all residents (10) and if all residents, if most of the residents, even if it can be agreed a percentage, I cannot remember what percentage he referred to but I think he said about even if it is seventy percent of the residents are willing to participate in the stay away then it will be a success.

But in his answer to the question did he appeal to the audience or to the people to respond to this call for a stay away? -- No apart from what I heard him answering the taxi owner, no.

In his answer to the taxi owner did he appeal to the (21) people to participate in the stay away? -- Well I would not say he was appealing to them because he was answering to a direct question on the stay away.

But did he use any words to the effect, in his answer, I just want to make clear, in his answer did he use any words to the effect that he or you, the audience or somebody was appealing to the people to respond towards such a call for a stay away? Was it part of his answer? -- Well the part of his answer that I can say was an appeal was that the taxi drivers and the taxi owners as residents also were in a position (30)

to/....

to take part in the stay away as residents. But still it was still open to them that it was up to them to decide, but all the same the appeal was for a successful stay away.

So he made an appeal for a stay away? -- That is my understanding of that, not that he appealed directly by saying that now we appeal to you to stay away on that day. He did not say so.

Now I would like to read you, I am asking you this because you said in your evidence-in-chief:

"This is a call open to everybody and we hope that it (10) will be successful and we also are appealing for people to respond well towards such a call."

That is on page 7892 in Volume 160. Now can you tell the Court then who the "we", who are the "we" that is doing the appealing? -- Well the "we" will be the residents.

No that is not, how can the residents call on the residents? -- Well the residents calling on other residents for a successful stay away.

Is it not the VCA and you people in control, the leadership in the Vaal, that is doing the appealing here? -- VCA, (10) that was not a VCA speaker, point number one. And number two that meeting there was no VCA speaker who called on the stay away at that meeting.

That was a VCA meeting, is it correct? -- That is so.

Yes, and on this meeting, and the "we" he is referring to is the people in control of that meeting? -- No.

Speaking as a guest speaker of the people in control of that meeting? -- No he was speaking as a resident of the Vaal complex, speaking to other residents of the Vaal complex.

Now after that, after his speech, then what happened? (30)

-- After/....

-- After his speech he was responding to those questions.

Yes but I just want to have precisely what happened. After he finished he sat down and then what happened? -- Well there were a number of questions coming up.

Just everybody jumping up and asking questions? I ask you specifically what, can you be more specific? -- I would appeal to the advocate so that we can be at the same level with him, I am trying by all means to be the same level with him. If questions are clear or if I think I understand the question clearly I will answer in the manner that I understand the (10) question and if it is not, my answer indicates that the question was not clear then the advocate can repeat that question to make it more clear. If I do not understand the question I will appeal that the question is not clear.

Directly he sat down what precisely happened then? What was the first step after he sat down? Is that clear enough? -- More people were raising hands to ask questions.

More people raising hands. Was this not put as resolutions to be discussed to this meeting, at this meeting, after accused no. 5 mentioned them? (11)

COURT: This being what?

MR JACOBS: The resolutions being, was not there an invitation from the chair, from the audience to have these resolutions mentioned by accused no. 5 to be discussed? -- No I cannot remember hearing the chairman referring to those resolutions, that they should be discussed.

Did anybody tell the audience that they can give their opinions and then there will be an adoption of this as a resolution, this specific resolution on the stay away? -- Did anybody give an opinion to the people? (12)

An/....

An invitation to the people? -- With regard to that resolution?

COURT: Well was there an invitation by anybody to the audience to give their opinions on these resolutions so that they might be adopted later or not be adopted later? -- I cannot remember if the chairman did that but I remember after Mr Malindi the chairman thanked him and he opened the floor to members of the audience who had anything to say.

MR JACOBS: Yes and then what happened? -- That is what happened. And ... (10)

So he opened the meeting to the floor and then who was the first one to speak about this specific resolution? -- The first person to speak with regard to the, to this resolution, these resolutions, particularly on the stay away, I remember it was the gentleman Mr Maroping.

Is that the taxi driver? -- No.

Yes what ... -- Mr Maroping spoke after the taxi driver.

COURT: Is Mr Maroping a member of an area committee? -- He was not elected into any area committee.

MR JACOBS: So Maroping ... -- After the taxi driver came (10) Mr Maroping.

Oh so the taxi driver was the first person? -- That is so, then came Mr Maroping.

Yes. Did he ask a question or what did he do? -- He asked the question on the question of the rally, the protest rally and the question posed by ...

Just tell us precisely what he asked about the rally, the protest rally? -- Mr Maroping's question was if people will stay away from work to hold protest rallies what good would come out of it? (10)

What?/....

What? -- What good will come out of it. Because the rallies will be held here in the township. From there the people will just be dispersing and going in all directions without a voice to be heard. Mr Maroping suggested that if there be a stay away then the grievances of the people can be delivered to the Development Board by people who would be meeting at these venues where rallies should be held.

Did he suggest anything of how to get their view over to the Board? -- Yes he said now this must now be directed to the Board from the points that people were. Because there is a (19) problem of recognition of the people's grievances and because of the problem of acceptance of accredited leaders of the people by those in authority it would be the best idea that all the people who are met at the point would then move from there, accompanying the people who were going to present the memorandum to the Development Board, all of them would march from Sebokeng, that is the Roman Catholic Church in Small Farms, right up to Houtkop where the Development Board offices are for delivery of this memorandum and also for possibility of opening up direct negotiations with the Development Board (20) people.

Now what is this about a memorandum? What memorandum did he refer to? -- Well he was referring that there should be a memorandum to be presented against the, to be presented to the Development Board with regard to the grievances and other problems that the community was faced up with.

What did he say, where must this memorandum come from? -- Well from the people.

How was it going to be presentable to the Board as a memorandum? Would somebody have to draw it up or what is (20) the/....

the position Mr Vilakazi? -- That is so. The suggestion then was that from the decisions of that meeting would be built this memorandum that is to be presented there.

And who must draw up the memorandum? -- Mr Maroping did not suggest it at that time.

Did you draw up, the people in charge of that meeting then draw up a memorandum there? -- People who were in charge of that meeting were involved in the drawing up of that memorandum.

Do you did draw up a memorandum? -- It was drawn. (10)

When? -- The meeting that was arranged for that was on the 2nd of September.

COURT: A mass meeting or a committee meeting? -- It was a committee meeting which was really not behind closed doors.

MR JACOBS: Which committee? -- It was a meeting that was to have involved the area committees of the Vaal Civic Association and members of the Executive committee.

Members of? -- The Executive Committee.

And? -- Members of area committees.

All area committees? -- All area committees as established, those that were functioning at that time. (10)

And was such a meeting held then on the 2nd? -- My information was that such a meeting was held.

Did you not attend that? -- I did not attend that.

Do I understand your evidence then correctly that the march was sort of first mentioned at this meeting from the floor, just a novel idea coming from the floor? -- The march was first mentioned from the audience.

Yes, and that is the first time that you ever heard of, that it was ever mentioned in the Vaal Triangle? So it (31)

was/....

was an idea that started at that particular meeting held by you?

-- I do not know, I cannot say there was at that time no mention of the march in any other part of the Vaal Triangle which I did not find myself in before attending this meeting. But when this idea came I heard it for the first time as a Vaal resident at that meeting.

I suppose it came as quite a surprise to you? -- It did come as a surprise but seeing that the people were prepared to move with the organisation to solve their problems it really, I was impressed by such a move. (10)

I would like to put it to you Mr Vilakazi that the idea of the march was not a novel idea that started on that particular meeting but it was also a topic at all other meetings organised in the Vaal in which the VCA did have a hand? -- I can only answer to the meeting of the 26th, the meeting which I had organised, the meeting which I attended and the meeting which I participated in. And to me it does remain a novel idea.

Because, I am putting it to you that the question of a march was already an item and a topic for a resolution at (20) the meeting at Boiphatong that same, that particular day? Would you dispute such ... -- I do not stay in Boiphatong, I stay in Zone 3 and I did not have any dealings with meetings anywhere in the Vaal complex other than the meeting in Small Farms on 26 August.

So, I am just putting this that you cannot dispute that it happened that that march was already also the topic of a resolution in Boiphatong that same day and more or less the same time? You cannot dispute that, is it correct? -- Well I cannot dispute that because it is something that I do not (30)

know/...

know.

And I, you cannot also dispute evidence to the effect that it was Esau Raditsela who first mentioned the question of a march at the Boiphatong meeting or who was the person who mentioned the question of the march at the Boiphatong meeting? -- That I do not know.

No but you cannot dispute it if there is evidence to that effect? -- I would find it difficult to dispute something I do not know.

Because on page 1797, Volume 39, the witness Mohapi (19) gave evidence that he attended that meeting in Boiphatong and that Esau Raditsela said at that meeting that in Sebokeng already, at the meetings in Sebokeng already decided that there will be a stay away on 3 September and further, and that there was a resolution that a march, that there will be a march to Houtkop. That is the point on the march is page 1798. The one on the stay away is 1797, the resolution on the march is 1798. So you cannot dispute such that Esau Raditsela already mentioned it at the other meeting? -- Though I attended that meeting I would find it difficult to be a true evidence by (20) that witness because when Mr Raditsela came back into the hall at Small Farms Roman Catholic Church it was at the point where resolutions were being adopted towards the end of the adoption of resolutions, as I was standing there reading out the resolutions. So I do not know what resolutions is he talking about now and talking about the meeting that he himself did not attend.

And Mr Mohapi also gave evidence to the effect, on page 1798 that Esau said the march for the people from Boiphatong will start at the square in Boiphatong early on the morning (30)

of/...

of 3 September, you cannot dispute that as well? -- Well that is something I do not know.

MR BIZOS: Is My Learned Friend putting that Raditsela said this at this meeting?

COURT: At which meeting?

MR BIZOS: At the Boiphatong meeting.

COURT: Yes I think so.

MR BIZOS: Well we read differently on page 1798. There is...

COURT: Well at the bottom of 1797

"Ja hy het gesê, volgens hoe hy dit verstaan het (10) hierdie dag van 3 September moet daar gemarsjeer word na Houtkop toe waar die raadsled ontmoet word."

MR BIZOS: Your Lordship is referring to page what My Lord?

COURT: The previous page.

MR BIZOS: That is the stay away My Lord.

COURT: No, no, it is the march, the bottom of the page.

MR BIZOS: I am sorry My Lord.

COURT: That is what Esau said had happened at Small Farms, Sebokeng, a meeting at Sebokeng that he had attended it was decided there. (20)

MR BIZOS: That is correct, there is a passage on 1798 which appears to be somewhat different but we will not take it any further.

MR JACOBS: And Edith that should have been at your place on that same day was a speaker at this particular meeting at Boiphatong. You would not dispute that? -- Who?

Edith Lethlake? -- Well I would not dispute that because that is what she told me when she came back.

So do you agree that that, the question of the resolution about the march on 3 September 1983 was not a new idea (30)

but/....

but it was already taken to other places by members of the VCA? -- I disagree with that because what I know is this point came for the first time during discussions at the meeting of the 26th. Whether any other member of the VCA had already raised this point, particularly when it is put that that person was referring to the meeting that we were holding at that very same time makes it difficult for me to understand how would that person, being there, know exactly what is happening here to the extent that the resolutions have already been taken at a meeting in Small Farms to this effect, when he (10) actually was not there even at the beginning of the meeting.

COURT: Where did Mr Maroping live? -- Mr Maroping lived in Zone 3.

Was he on your committee? -- On the Action Committee, yes.

Was he elected to the area committee eventually on the 26th? -- On the 26th he was elected as an additional member of the committee.

MR JACOBS: I put it further to you Mr Esau Raditsela broached that matter at the other meeting because he knew that the question of a march was going to be broached at your meet- (20) ing and that is because all of you knew that. -- Well if Esau Raditsela knew that I did not know it and other people who were with there did not know it until it came up there because people were discussing the issue of the mass rally but then it was discussed it was found of what good would the mass rally be, and people were discussing this very open mindedly. There was nobody who came there and just shouted and said no this is the point, this is the way we do, because we always allow people to participate in these discussions during mass meetings, to voice out their feelings and so that people, when an (30) agreement/....

agreement is reached it will be an agreement reached by the people in that meeting and not being told what is going to happen. That is why I even find it funny that Mr Raditsela would go to Boiphatong and go there and tell the people there that there will be a stay away and the people from Boiphatong will march from what point to what point and all that, being not a resident of Boiphatong or having anything to do with Boiphatong himself. I do not think the people of Boiphatong would allow such a situation.

Mr Vilakazi do you agree also that there were mass (10) rallies before the march started, at Small Farms especially? -- There was, people converged on Small Farms.

COURT: Well was there a mass rally at Small Farms before the march started? -- I do not know if there was a rally. My information is that the people converged for a small meeting then they marched.

Yes, the witness was not present.

MR JACOBS: Now what question, after Mr Maroping ...

MR BIZOS: I am sorry I may have misled, Masenya I think My Learned Friend wanted. (10)

MR JACOBS: Mr Maroping, this one who broached the question of the march for the first time, is it correct? -- That is so.

So he spoke after the taxi driver? -- That is so.

And after him what did happen, what is the next, who is the next speaker? Do you know? -- There was a speaker who basically wanted to ask a question that what should happen that if people are arrested for having gone on the march.

COURT: Who was that person? -- This person was Mr Masenya.

MR JACOBS: Now what precisely did he ask you? -- No he said what will happen to the children of those people who would (30)

be/....

be arrested.

For? For what, arrested for what? -- For the stay away and the march.

The stay away and the march? -- That is so.

Are you sure he mentioned both the stay away and the march? -- My recollection is that he mentioned both.

In your evidence-in-chief you only referred to the stay away. Do you agree to that? -- Well it could have happened that I may have mentioned the stay away only. But I remember he did put it as stay away and the march. (10)

Do you seriously expect the Court to believe that a person who was not allowed to speak if he does not renounce the councillors or the council system will speak again at that meeting? -- It shows that people did not have any ill feeling against Mr Masenya as a resident, and secondly Mr Masenya was offered a chance to speak which he himself declined. Now here was a point that he wants to speak about, or to speak on. I think it was only right for him to stand up again and speak. And this time he was not stopped, so he was able to speak.

Now before he stood up to ... -- On that it shows that (20) there was that particular problem at that time when he started to speak only. But this time there was no problem because he was not addressing himself to the councillors and all like things but he was merely asking a question as part of that meeting.

But I put it to you you are wrong in that, it was put that the chance was not given him to speak and he will not be allowed to speak on that meeting unless he renounces the council system? -- No. They said he should confine himself to the rental issue and not talk about the councillors (30)

unless

unless he disassociates himself or he renounces the council system.

Unless he denounces council system? -- That is it.

And you expect the Court now, and the people became agitated at him being a councillor at that time? -- No, because the question, the request by Mrs Dhlamini was to the effect that Mr Masenya must not address himself to the councillors, he must not mention councillors if he wanted to speak. That was very much clear. Nobody said Mr Masenya must not speak because he is a councillor. He is a resident and that meet-(10) ing was a meeting of residents.

Did you think this question about asking what will happen to the children if their parents were arrested is a relevant question at that time? -- Is a relevant question?

Yes. -- Well any question would have been relevant at that time because people were asking questions around the subject of the mass meeting, the rallies, the question of the rally, the stay away, the rally and the march, and the call for the councillors to resign were being discussed at the time. So if one had particular concern with regard to one's children(20) in case one is arrested then it was a relevant question.

Yes and it was ...

COURT: No Mr Vilakazi any trouble you have with your throat is self inflicted because that answer you could easily have answered by means of saying yes. Next question.

MR JACOBS: And it was important for the people to know if there was a possibility of them being arrested? -- It was important for people to know.

Did you regard it as such, when it was asked at that time, that it must be a relevant and important question for the (30) people/....

people being asked to go on the march to know what the consequences can be? -- The question was answered by that if there were people who were arrested because they will be arrested then other people who were not arrested will look after their children. So the person who answered that was not of the idea that all the people who would be on the march would be arrested. Myself as it was and as it is now there was nothing indicating to me that if we embark on a march that we, a peaceful march to the government offices, then we would be arrested.

Was not the obvious person to answer that question (10) accused no. 5? -- No it was answered by a person in the audience.

So why was it left over to some of the people in the audience to answer that question? -- This was an open discussion amongst the people and as such when these issues were discussed there was no attaching of any importance to any particular person that he must be the person who answers or who deals with that and with that because in my community we believe that people who hold office should not dominate at meetings, so that those who are participating, being the residents, will not be clouded by this domination by (20) those in office but will freely debate the issues affecting their lives.

COURT: Well was accused no. 5 in office? -- He was not in office.

MR JACOBS: Was it not then an important question for you, for one of the members of the VCA to answer? -- Well if I had answered it directly just like that people would have taken it as VCA policy or well people would just simply agree with me because I am an executive of the Vaal Civic Association, which in itself will inhibit participation by most of the (30) residents/....

residents in debating democratically issues that affect their lives.

Did you try to find out before the time what will happen if the people were going on marches, that they can be arrested for illegal gatherings? -- Before what time?

Yes. -- Before what time?

Before? Yes before the march? -- After the 26th, before the march?

Let us start with the 26th. Did you try to find out before the 26th? -- No before the 26th there was nothing (10) that would really need me to find out with regard to that. In my mind it was very clear that ...

Did the VCA try ... -- ... illegal gatherings, open air gatherings were illegal and as such were referred to as illegal gatherings but the march was not part of the open air gatherings.

Did you discuss that in committee meetings of the VCA? -- We did not discuss it in the meetings.

COURT: But now according to you Masenya raised the point and said what would happen if we are arrested. So at least (20) somebody thought that this would be an illegal march? -- Yes but I thought he would have, he said he thought that the arrests which usually comes like when people are together and they are approaching the authorities or they are in a position of one thing or the other. Most of the time you will find that those who are isolated as being at the leadership will almost certainly end up detained or being harrassed by the police thereafter. So my understanding of his arrest there implying to me, it just implied that what if when we embark on this and then all of a sudden we are arrested. Which would mean being arrested (30)

by/....

by the security police.

No I do not understand that entirely. Are you saying then that you were expecting the leadership of this march to be arrested? -- No. I was, what I am saying is how I read Mr Masenya's question.

No but I understood you to say that normally the leadership of this type of march is arrested? -- Not of this type of march but the leadership of people who are together, you know. Say for instance if it is the Vaal Civic Association then it is protesting on one thing or the other, then the (10) people who would be arrested even before anybody else the police will focus on the leadership. These would be the people who would be arrested. So seeing that would be a meeting and it had not been decided who would be holding the memorandum and all like things I understood Masenya to be saying what if those people who will be at the lead of the march who will be holding the memorandum, after presenting it they will be arrested. You know, for cross-question, for interrogation and all like things, being detained generally. Then who will look after the children during that time. (10)

So did Masenya's question then refer, according to you, to the leaders of the march who were going to hand over the memorandum? -- No to anybody who participated in the march who were going to be picked up by the police later and be detained.

So are you saying that nobody gave any thought to the illegality of this march? -- If there was anybody at that meeting who did this person did not raise it at that meeting.

C.510 MR JACOBS: So who answered this question of Mr Masenya? -- There was a young man from the floor who answered Mr Masenya by saying ... (10)

Who/....

Who is that person? -- I do not know the person's name, who answered Mr Masenya by saying it is our responsibility as residents that if we come together then we reach a conclusion together, it means that it is not my conclusion or anybody else's conclusion alone, it is ours. So whatever happens to us on this conclusion then we must look after one another. So if you are arrested because you attended this meeting or because you did what, which had connections with this meeting then it means those who are not arrested and who were also at this meeting will then be bound to look after your children. (16)

Is that what he said? -- That is what he said.

And that is a correct version given by you now? Is that correct? What you just told the Court is a correct version of what he said to the audience? -- I am giving the Court what I remember to be understanding of that speech as it was put there.

And after he gave that answer what happened? -- Well after he gave that answer, well people were agreeable with him and there were others who were also supportive of him, of his position that people will look after one another. (20)

Who supported him? -- Well there was a speaker from the platform.

Did accused no. 17 support him on that? -- A speaker from the platform, Mr Matlole, asked the chairman to give him a chance when he tried to explain to people that he ...

Yes and what did Mr Masenya, accused no. 17, what did he say.

COURT: Mr Matlole.

MR JACOBS: Mr Matlole, I am sorry. -- Mr Matlole explained to the meeting that people are gathered there as residents (30)

and/....

and elderly people and they should make it a point that they should reach agreement on these issues with clear minds, so that we should not have a situation where an agreement is reached only to find that people back off that agreement and he said now people must remember the story of Gideon who in consultation with God was instructed by God how to select those people who were cowards, who were afraid to take up God's instructions by following Gideon defending the land and those who were prepared or who were brave enough to go with Gideon.

And he said now the same every person as he knows himself (10) must be in a position to do likewise and not have people who will say that now we are going to take up this position then only to find that they backtrack and ultimately do not know whose position it was.

But what did, did he say anything about what will happen to the children and who will take responsibility for children of parents being arrested? -- No he said, he only added that he supports the good point made by the previous speaker that if any family suffers because of decisions taken at this meeting with regard to the march or because of arrests, (20) then those who were not arrested should only be in a position to assist the families of those arrested.

Did anybody on that meeting, did anybody, anybody now who participated in the discussions around the question of the march and the stay away and the people being arrested, did anybody refer to any organisation in that? In endeavouring to give an answer to that question? -- No there was no reference to an organisation.

The word "organisation" was it ever mentioned then? -- No I cannot remember if there was an organisation mentioned (30) there./....

there.

Because I have difficulty with your evidence-in-chief in this regard.

COURT: Well are you saying that the word "organisation" was not mentioned or that the name of an organisation was not mentioned or that neither of the two was mentioned? -- I cannot remember really if at that stage there was an organisation mentioned.

MR JACOBS: The word "organisation" was not mentioned and can you remember any organisation referred to by name? -- That (10) is what I am saying that at that point I cannot remember any organisation mentioned.

Or that the word "organisation" was mentioned, without identifying the organisation itself? -- Well I cannot remember, even if I put it in-chief, I cannot remember if I did at that particular stage.

I would like to read to you from the Volume 160 page 7894. The question was put to you in your evidence-in-chief:

"Did anyone suggest that an organisation would, whether the UDF or any other organisation, would actually pay (20) out money in order to assist people who might get into trouble as a result of the stay away."

That was the question, can you remember that? Do you remember that question? -- In my evidence-in-chief?

Yes. -- Yes I remember that question.

And your answer was the following - I will read your whole answer for you:

"There was no talk of an organisation assisting people if they got into trouble because of the stay away at the meeting but what people mentioned there was that on (30)

top/....

top of everything there was nothing to be afraid of in taking part in a stay away because here we had organisations being involved in this meeting and it is always responsible people who had come together to form organisations because of a particular interest and as such there was no need to fear that trouble would be there as this was the decision of the people in conjunction with organisations."

Is it correct, is that your answer? -- Yes that was my answer, yes. (10)

So you did refer to organisations in relation to people being, the possibility of people being arrested and taking care of their children? -- Yes there was talk about these organisations but this was just coming up, not precisely exactly after the said questions. As I hear it there also it does say that there was no talk of a particular organisation, so people spoke about the organisations and the need for people not to be afraid because people would, through the organisations, see to it that where the neighbours cannot assist one another then through the organisations they can see (20) what they can do.

COURT: Which organisations were referred to? -- Well I would take it that they were referring to the Vaal Civic Association and the Vaal Organisation of Women which were the organisations that had been mentioned that far at that meeting.

MR JACOBS: Is not the only organisation in control of that meeting, was it not only the VCA? -- Well I took it because there had been a speaker who said she was from the Vaal Organisation of Women and who had also indicated what good work the Vaal Organisation of Women does amongst people in the (30) community./....

community. That is why to Your Lordship's question I say I think reference was to the Vaal Civic Association and Vaal Organisation of Women as the organisations that were mentioned at that meeting.

Yes. And is it not then only reasonable that it was conveyed then in the speaking there by the people that the VCA will look after the people, the children of the people? -- There was no one saying that VCA would look after the children of the people because this was mentioned by the people because this was mentioned by the people, people were saying but (10) we also have organisations, then we can get assistance and then assistance and looking after the people's children is two different things.

The decision of the people in conjunction with the organisation, to what decision do you refer here of the people in conjunction with the organisations? -- Well I am referring to the decisions that were to be taken at that meeting.

What decision? -- That same meeting.

Decision to go on the march? -- The resolutions as a whole. (20)

The decision to go on the march? -- That is one of the resolutions.

This whole part of your evidence related to the march and the stay away, is it correct? -- That whole related to the decisions of the meeting, that is the resolutions of the meeting as a whole.

You see because then I do not understand your answer still more. I will read again what you said here:

"But what people mentioned there was that on top of everything there was nothing to be afraid of in taking(30)

part/...

part in the stay away because here we had organisations being involved in this meeting and it is always responsible people who had come together to form organisations because of particular interest as such ..."

COURT: "And as such".

MR JACOBS: "And as such there was no need to fear that trouble would be there as this was the decision of the people in conjunction with the organisations."

So it refers to the stay away? -- To the stay away and the march as part of the decisions of the people, as part of (10) the whole resolutions taken there.

And that out of this it is quite clear that the Vaal Civic Association inter alia will be one of the organisations looking after the children and assisting the people arrested?

MR BIZOS: My Lord is that consistent with the first part of the answer, there was no talk of an organisation assisting people.

COURT: Well if that is not indicated then I would like to know what the witness meant by the second part of his answer.

MR BIZOS: Yes, well My Lord I am not for one moment (20) suggesting that it is a clear answer as a whole but what I am saying is that the question was not consistent with the first part of the answer.

COURT: Yes. Now would you want Mr Jacobs to tackle him on the inconsistency?

MR BIZOS: My Lord I will leave it to My Learned Friend, to, having regard to that aspect that I drew Your Lordship's attention to, for him to decide what he wants to make of it.

COURT: Yes.

MR JACOBS: What do you say to the proposition that I have (30)

put/....

put to you? -- Can I have the question once more?

I will try and repeat it, before Mr Bizos interrupted me. I said that do you agree that the organisation in conjunction with the people who made the decisions here, one of them inter alia is VCA and that in relation to people getting in trouble as a result of the stay away or the march that they will assist the children and people arrested? And that is consistent with your statement here? -- Yes the organisations together with the members of the community during such a situation then they will be bound to do something to be of (10) assistance.

Yes, and people on that meeting will understand it then that the Vaal Civic Association will assist the people arrested and the children as well? -- People in the meeting will understand it as it is put clear that it is the responsibility of the people, the community, to look after the children and also the very residents will together with the organisations assist those families affected.

Yes and the VCA itself, we are now only concerned with the VCA, what assistance did you anticipate to give to (20) the people arrested and to the children? -- Did I anticipate?

What assistance would the VCA give the people in trouble? As a result of the stay away? -- Well I think it would depend on what type of trouble.

If they are arrested. -- And if they are arrested?

Yes. -- Well the VCA would go on behalf of the family, or together with members of the family and enquire on what charges is the person arrested, why was he arrested.

Yes? And say for instance, just for instance say it is arrested for an illegal march then what would you do? -- (30)

Well/....

Well I would not know at that stage because I never knew of anything called an illegal march.

Or an illegal gathering? -- Well that was also out of my mind because we were not discussing an illegal gathering there.

So your help to the people would have been very, very, very slight, only finding out what charges they are charged with? -- Finding out what charges they are charged with and going back to the community and discussing that problem with the community and getting a decision made between the members of the community and the organisations on what steps to take.

Is it not so that what you actually had in mind was that it will be legal assistance being given to people arrested? By the VCA? -- If there was legal, we could not, it could not, by all means we could not have just thought of legal action being the main thing because I personally, I did not understand that question to be a genuine question. I took Mr Masenya to be a person who knew and then I did not understand him to be saying anything genuine because I was sure that the march would be prepared for and there would be martials and the conduct of the marchers would be looked after. So I did not think of the legality of it. I mean even if it was the situation that I thought that I would have to seek legal assistance for those people, VCA did not have money to pay for the lawyers at that stage. Then it would be, if the problem of the legal assistance came then it would be for VCA to talk with the residents and see if we can pool together enough funds to engage a lawyer to assist that family, and if we failed then ...

Yes because I am going to put it to you that what was meant/....

meant here is legal assistance and that you will get through the UDF? -- Well I did not know of any legal expenses that were ever channelled to the Vaal Civic Association through the UDF or any agreement that was done between the UDF and the Vaal Civic Association for channelling of funds.

You do not know about any assistance, legal assistance from the UDF to Vaal Civic Association? -- I do not know of any that there may be.

Even not after the riots? -- Even after the riots I do not know of any. (13)

Who is paying your legal expenses? -- Well I understand the South African Council of Churches.

Through which organisation? -- Well I did not ask my wife.

And if there is evidence to the effect that legal assistance would be, even in pamphlets that were handed in in court here already it was indicated that legal assistance, medical assistance and so on would be forthcoming from UDF you say that is not the truth? -- I am saying that is not the truth in that the question was what did I have in mind then. I am explaining what I had in mind then and I said further I do not know (14) of any channelling of funds for legal expenses towards the Vaal complex. And with regard to the pamphlets, those, I think I can answer to those pamphlets.

Mr Vilakazi you are an expert in evading the questions. I asked you specifically did you know of UDF giving legal assistance at any time, that was specifically stressed, any time? -- That is so.

And you said no. Now you come back to at that time in the Vaal? -- That is so.

What is it, just give me a chance to finish my question. (30)

I am pointing out to you that I specifically draw your attention to the fact that at any time, not on a specific time, and you said no. -- That is so.

And I did not refer at that stage to any happening at the time of the meeting and you did not answer my question then. Will you answer it now? -- My answer is I did not know of any instance.

MR BIZOS: In fairness to the witness that was given at least twice before and I would appeal to My Learned Friend not to accuse the question of any expertise at evasion on that (10) ground. I beg your pardon, the witness.

COURT: On the expertise or not we will decide later. You can address us on that in argument. The question was do you know of any legal assistance the UDF rendered and his answer was "I do not know of any, not even after the riots".

COURT ADJOURNS FOR TEA. COURT RESUMES.

BAVUMILE HERBERT VILAKAZI: d.s.s.

FURTHER CROSS-EXAMINATION BY MR JACOBS: Mr Vilakazi I just want to refer you to the pamphlets which I just mentioned, that is AN15(7). (20)

COURT: Being the pamphlet?

MR JACOBS: In which it is said that legal assistance can be obtained from UDF. Take mine. AN15(7) is a pamphlet already identified by you, is that correct, issued by the Vaal Civic Association? -- That is so.

And at the back of it there is a translation and notices: "Doctors can be consulted at Roman Catholic Church, Small Farms. Lawyers can be consulted at UDF, 42 De Villiers Street, Khotso House, Johannesburg. Phone no. 291916/7." So is it correct then that the UDF in conjunction with the (30)

VCA/....

VCA and ERPA, meaning Evaton Ratepayers Association, did assist and did tell the people in this pamphlet that they can get assistance from the UDF, legal assistance inter alia? -- It is correct that the pamphlet says so. But what I was saying is that I do not know of any occasion where legal assistance was received directly from the United Democratic Front.

COURT: Well who was going to pay for this legal assistance? -- During our discussions with Reverend Chikane we appealed to him to, as the Vice-President of the United Democratic Front to discuss with a number of service organisations for assistance, and also consultation with lawyers who would be in a position to assist us.

Well then who would pay, who would pay the lawyers? -- Through service organisations, as we had agreed then.

Which service organisations? -- Like the South African Council of Churches. That is so. And also for other things like the Red Cross being bringing in food parcels which they themselves as a service organisation were in a position to supply.

MR JACOBS: Mr Vilakazi I am going now to put to you a certain part of the evidence and what was put to Mahlatsi, that will be in Volume 43 and I will start at page 2061 and I will start there so that you can get the gist of what was put here. It started here:

"Do you recall whether Mr Malindi, accused no. 5, spoke at that meeting? -- Yes I do."

This meeting he is referring to is the meeting of the 26th August, the one under discussion, that is 1984. And then

MR BIZOS: Yes do you recall whether he spoke and what he said? -- Yes I do.

(10)

What/....

What do you say he said? -- What he said in his speech he was explaining about the stay away and about the rent and the buses will not be operating.

Yes? -- And that the shops will be closed for twenty-four hours and again about the taxis which will not be operating on the roads. The only vehicles which will be operating on the roads will be the ambulances which will be conveying the nurses to their duties."

Do you agree with that? That, what Mr Malindi said there was the only vehicles which will be operating on the roads (18) will be the ambulances which will be conveying the nurses to their duties? -- This was in explanation, I agree that that part did come up but it was further to explanation on the stay away that the people in Sebokeng had indicated that the hospitals themselves as essential service, health centre, people working at the hospitals would not be affected by the stay away because of the responsibility of their job looking after people in hospital who are ill. As such what he said that the ambulances would be in the position to transport the nurses to and from work. (20)

Now is it correct that accused no. 5 said this, as it is, as Mr Bizos was dealing with the speech of accused no. 5 and did he say that during his speech? -- No it was not during the speech, it was when he explained, which I take it was explaining from what his speech was based on the stay away itself. These questions came from the stay away itself.

So it is not in the speech but from the explaining? This question of the ambulances? -- Well that is the way I remember it to have been.

Okay let us carry on:

(30)

"Yes/...."

Yes and he further said, the question was:

"Yes? -- And he further said that he is saying there is something which is going to have reported in newspapers and people must not be frightened or get scared when they may be arrested."

Did he say that in his speech? -- Well I do not remember him talking about the newspapers and being arrested.

And you either cannot dispute it that this evidence is correct? -- Well I will not dispute it because I cannot remember it. (19)

And then the next question:

"Do you recall whether he mentioned that he had been to another meeting? -- Yes I know about that, that was, there was such a talk."

So on this you do agree, correct? -- That is so.

"Did he mention that he had been to the meeting the previous day in Zone 13? -- That is true."

On this you also agree, correct? -- That is so.

"And did he report what the resolutions had been at that meeting? -- Yes he did report about what was (20) happening there in a meeting and though he did not elaborate as to what it is exactly that he is reporting about."

That was the answer, and then the next question:

"Well did he not say that these resolutions were taken at this meeting (and then it is quote here) 'I am putting them forward at this meeting for the meeting's consideration'".

Did he say that? -- Well I do not remember him saying that.

And if, where did, what do you think, where will Mr (30)

Bizos get this from? -- Well he would have got it through consultation with the accused people.

No but you are the person that said that you are the person specifically who instructed your lawyer on this particular point of this incident, on that particular meaning, so it must have come from you? -- At that time we were referring to the incident with Mr Masenya.

So do you agree that this is quite different from what you told the Court this morning? -- Like I said that part, I cannot remember hearing it in Mr Malindi's speech. (10)

Do not evade my question please? Answer my question then we will finish today. Do you agree this that was put to the witness about accused no. 5 saying that "I am putting them forward at this meeting for the meeting's consideration" is quite different from what you said today? -- Well it is different.

And now you are saying that Mr Bizos got that from the other accused? -- What I am saying is that there are people who are accused people here who attended that meeting and during that time one of the people could have given an (20) instruction to that effect.

I am asking you again do you say that this quotation was not, Mr Bizos got this quotation from the other accused? -- That is what my belief is.

Right. So if the other accused are saying so and you are saying something else which of you is correct? -- Well I have said that only that I did not say that, I heard Mr Malindi saying that I am putting this for your consideration at the meeting. That is the part that I did not hear Mr Malindi say and this I could not remember that in isolation of the (30)

fact/....

fact that later Mr Malindi was saying that to the meeting that, in answering to the taxi owner that you do not say that Malindi says but what I am saying is what I heard at the meeting. So even if Mr Malindi used those words and I do not remember them I could not have said that he did say that without me remembering that.

COURT: So are you now saying that he could have said "I propose that we adopt the same resolutions as were adopted at the meeting of 25 August", that he could have said it and that you did not hear it? -- What I am saying is that I did not (10) hear that.

Are you saying he could have said it? -- He could have said it, he could have not said it.

MR BIZOS: Yes My Lord, the words are not that they should be adopted but that the meeting should consider ...

COURT: Consider to adopt at this meeting.

MR BIZOS: Yes.

COURT: Well what is the difference?

MR BIZOS: Well it is a question of choice and a question of instruction and I think that this witness has been very (20) careful to draw a distinction in that regard.

COURT: Yes.

MR JACOBS: Let us go further then to answer Mr Bizos' interruption. The next question put was:

"Yes that is said ..."

It is again a quotation that was put to the witness:

"I have been to this meeting and these were the resolutions that were taken and this is what I suggest we should consider to adopt at this meeting".

What do you say to that? -- Well that I did not hear. (30)

You/....

You did not hear it? So that must be wrong? -- I am not saying that is wrong. If I did not hear it I cannot form an opinion on it.

Now Mr Vilakazi do you know of any reason why you did not hear this? -- If it was said and I remember that it was said I could boldly say that was said because I remember that it was said.

Although you gave evidence this morning that Mr Malindi, and that is a fact, you gave evidence as a fact that accused no. 5 never put the resolution for the audience to discuss (10) or adopt and you were emphatic on that this morning.

MR BIZOS: No that is not a correct quotation of his evidence. In answer to Your Lordship he said that in an indirect way there was an appeal. That was the answer to Your Lordship. And, with the greatest respect, I did not want to interrupt My Learned Friend and indeed I think that I have been particularly patient with some of the things which My Learned Friend has been putting, and although the witness has agreed that what is put here is different I would submit, with respect, that these differences are not material in relation to what he (20) gave, the answer that he gave to Your Lordship this morning that there was an indirect appeal for the adoption of the resolutions.

COURT: Yes what is your answer?

MNR JACBOS: Edele met my stellings vanoggend het ek vir h'n spesifieke vraag gevra of dit voorgestel was deur beskuldigde hetsy in sy toespraak. Ek gaan nou op my geheue ook en of in die agterna bespreking en toe was hy dat van beskuldigde, ek het nog gevra of dit net die woorde is en ek het probeer dit aanhaal, die resoluksie soos hy daar is en hy het dit (30)

so bevestig dat die resolusies was net deur Mnr Malindi, beskuldigde nr 5, genoem. Dit was sy woorde gewees en dit was nie voor hom voorgestel aan die vergadering dat hulle moet bespreek word of dat hulle moet aangeneem word nie.

COURT: Well the evidence was he just mentioned them shortly, the resolutions. No. 5 had no particular attitude on the resolutions. He did not appeal to the people to participate. That is approximately the lot. Very well. Did you at this meeting hear no. 5, accused no. 5 say "I suggest we should consider to adopt these resolutions of 25 August at this (10) meeting? -- What I remember was to the effect that Mr Malindi said "I am mentioning these resolutions as they were adopted in Zone 13 where other people had met just like you". If he included that people should consider them for adoption that I do not remember hearing.

Could he have said so? -- I doubt if he, he could have said so but the question that made me think that he did not say so was when he answered to the taxi man's question on the taxis when his first words were people should bear with him and not understand him to be saying these are the resolu- (20) tions or this is what Malindi is saying to us but people should take it that he is talking in terms of other resolutions that were taken somewhere. So it must not be construed to be him saying he has come there to tell the people what the resolutions should be.

Yes?

MR JACOBS: Now let us go to this taxi driver's question. Can you give the, help the Court and say anything what urged this man to ask about stone throwing when the resolution was discussed at that meeting of the 26th? -- Well I do not know (30)

what/....

what urged him.

Was any call made on the people not to participate in stone throwing? -- If I remember quite well it was that during the discussion of the march it was said that the march will be very much disciplined because the people have genuine grievances and there would be nothing like stone throwings or any acts of ill discipline amongst the marchers because the march would be somehow prepared for for the discipline.

Was the resolution on the stay away and the resolution on the march, these two were they accepted as resolutions (10) at that meeting? -- Yes they were accepted.

At what stage did that happen? -- This happened when all the resolutions were read out at the end of the meeting for acceptance.

Just to get the picture clear you only discussed it during this period? -- That is so.

And then was it during, was it before the next speaker, did they adopt it then or not? -- No they were all read out as points that were raised by the speakers and when they were read out the audience were asked to indicate whether they (20) accepted as the resolutions of the day.

Is that at the end of the meeting? -- That is so.

Before the election of the committee? -- That is so.

Just directly before that? -- Immediately before the election of the committee.

Now Mr Vilakazi there was evidence in this court, you were in court, to the effect that on the 3rd, on the morning of the 3rd people started stoning buses early in the morning before the march has started? - I heard evidence to that effect, yes.

Can you explain that in the light of your evidence (30)

here?/....

here?

MR BIZOS: Where My Lord, with respect. Was it anywhere near this march? There has been no evidence on that with respect.

MR JACOBS: The police gave evidence here that in the townships, I will get that evidence. If My Learned Friend persists on it.

COURT: Well can you ask this witness to explain something when he was not there?

MR JACOBS: No but he heard the evidence, if he can explain why it started. (10)

COURT: Well this is argument later on, why is his opinion relevant to me?

MR JACOBS: Then I will leave that.

COURT: I want facts.

MR JACOBS: It is just on his say so that it must be disciplined march.

COURT: Well maybe it was intended to be disciplined but it was not, I do not know.

MR JACOBS: As the Court pleases, I will leave it at that then and use it in argument. Another point that I would like to (20) raise with you Mr Vilakazi, at the beginning of this meeting did anybody suggest or tell the meeting that a neutral chairman had to be chosen by the meeting? -- The meeting of the 26th?

Yes this particular meeting of the 26th. -- No at the time of my arrival and right up to the end of the meeting there was no talk of a neutral person to be chosen there.

And if anybody says so that will be not the truth? - If anybody says so that will be something that I do not know.

COURT: Did you come late? -- I came in when the meeting was starting. (30)

Before/....

Before the chairman spoke or ... -- That is so.

MR JACOBS: With whom did you arrive there? -- I arrived with Reverend Mahlatsi.

And was there singing at that stage? -- No there was no singing at that stage, people were just seated expectantly.

And you yourself did you sit there? -- I could not sit on the platform because there were few chairs and as Reverend Mahlatsi moved up to the platform I moved to those chairs that were still empty at the front of the hall.

Did you sit in the hall? -- That is so. (10)

For how long did you wait for the meeting to start, for the chairman to start with, officially start with the meeting? -- It was just a few seconds.

Did anybody in your presence there announce, make an announcement to the effect that, to the audience that a neutral chairman was necessary for this meeting? -- There was no mention during my presence there.

I would like to read to you from the record on page 628, Volume 13. This was put to Mr Masenya. I read from page 628 two thirds from the top: (20)

"Now when you got there - and that was put to Masenya - did you get there before the meeting started? -- When I got there it had not started yet but just at the time when I arrived it then started.

Right, do you recall how the chairman came to be the chairman of that meeting? -- I do not know.

Well can you not recall that it was announced? -- I cannot remember.

That as people from both Zone 3 and Zone 7 were there it would not be right to have a chairman either from (30)

the/....

the one zone or the other and that a meeting should indicate a neutral chairman, do you recall that? -- I cannot remember that."

If that was put that it was ... -- I do remember that.

I beg your pardon? -- I do remember that being put.

So now you remember that?

COURT: Being put in court.

MR JACOBS: Being put in court, but do you remember that happening when the meeting started? -- Well I do not remember that happening at the start of the meeting. (10)

And if it was put like this that it was indicated to the meeting that a neutral chairman must be chosen then it is false? -- Well I did not know the line of the cross-examination, whether it was to do what because that instruction around the events, around the question of the chairmanship was the point that was discussed with the lawyers and this was the point that we had discussed all with the other accused, and I do not know how, what purpose was it meant to be put in that way.

But would you agree then that that is a false statement put to the witness, according to your version? -- Well like (20) I said what I am saying is what I remember hearing having happened. If it did happen and I perhaps did not hear it because I was inside the hall or I was outside the hall at the time this announcement was made or whether it was made from the platform I cannot say that I heard it and I do not say that this statement was false.

And at the bottom of page 629:

"Do you recall whether there was an announcement that a completely impartial chairman had been appointed for that meeting, that is Mr Mokoena, that is accused (30)

no. 6, but that he had not turned up. -- I cannot recall that."

Is that a correct version? -- Is it suggested that it was put that Mr Mokoena would not be there was announced?

No I will read it again, listen carefully, what I am reading to you here, if that was put to the witness Masenya:

"Do you recall whether there was an announcement that a completely impartial chairman had been appointed for the meeting, that is Mr Mokoena, that is accused no. 6, but that he had not turned up? -- I cannot recall that." (10)

Did that happen? -- Well I cannot recall that happening.

And then there was a correction by Mr Bizos and the next, in fairness I will put it to you:

"You cannot recall that, and I have to ask His Lordship's apology, I got one detail wrong, that it was in his absence that accused no. 8 filled in as a chairman even though he was from one of the zones."

Does this help you to remember now? -- Well I know that Mr Nkopane, accused no. 8, came in because Mr Mokoena could not be available. (20)

Mr Vilakazi would you agree that this meeting of the 26th was a meeting in which the main focus was on the councillors and the council system? -- The main focus of that meeting was not on the councillors and the council system. The main focus was on the rent hikes.

And the rent, and I put it to you further that the rents and other issues were used to mobilise and politicise the people against the councillors and the council system? -- These issues were not used to mobilise and politicise the people against the council system but these were problems that (30)

the/....

the people were faced up with, and as such people then rejected the councillors because of their inability to deal with these problems.

And I put it further to you that the people were instigated to take action, direct action in unity, against the councillors and the council system? -- That is not so.

The councillors were depicted as sell outs, puppets of the government and as dishonest people? -- That is not so.

And the call was because of that they must resign? -- That is not so. (10)

And if not, if they will not resign then they will be killed and their property destroyed? -- That is false.

And I put it to you that if people do not adhere to the call for the boycott then steps will be taken against them even if they be killed? -- Well I do not know where these propositions come from but they are false.

That the VCA will look out for the people and protect them if they are arrested? -- It is not true that VCA will protect people arrested because people who are arrested are protected by the police during their arrest, that is false. (20)

Also, and that VCA will also, people protected, referring to the children of people arrested? Is that ... -- The resolution there was that VCA and the community, the organisations in the community and the community would take responsibility of looking after those people.

And when you are looking after the people, the children of the people arrested they will protect the children? Is that correct? -- Well it is not that VCA will protect those children because I cannot see members of VCA being able to serve a protecting role on these families because that is (30)

again/....

again the responsibility of the community to do that.

And I put it further to you that it was also, that the VCA, it was your intentions and your plan that the VCA will assist the people arrested themselves with legal assistance and otherwise, any other assistance they needed as being arrested? -- That was not the intention at that meeting.

No I am putting it to you as coming from VCA. -- That was not the intention of VCA at that meeting.

Then I have got a few other points that I want to handle with you. The first is the question of the autonomy of (10) affiliates and I am going to put it to you that you were trying to mislead this Court and convey a false picture to the Court as to the autonomy of affiliates in the sense that, if I understand your evidence correctly, that you say the organisations are fully autonomous and that the VCA and other affiliates connected with the UDF only go so far as to that affiliates, you affiliates, including the VCA, meet to share experiences, discuss matters and then you were off and left to your own devices. What do you say to that? -- I do not think that is exactly what I said. (20)

So just to be sure then what is your autonomy, how do you define autonomy in regard to affiliates, and especially VCA? -- I said where the organisations come together within the United Democratic Front and decisions are taken every organisation has its own choice of participation.

Yes. -- And that is how the organisations maintained their autonomy. If an organisation then decided that the organisation would not participate in such a project it will not be a party to such a project. That is autonomy.

You see I am going to refer you to EXHIBIT A1 shortly, (30)

that/....

that is according to your evidence you did take this as very important, that is the Working Principles, as the basis of your affiliation to UDF. Have you got it in front of you?

-- That is so.

Page 8, and there paragraph 5.2. Have you got it in front of you? -- That is so.

And I will read it out:

"All organisations which are prepared to commit themselves to the declaration, policy and to the programme of action will be eligible to make an application for (10) affiliation through the Regional Councils."

-- That is so.

So it goes further than only going to meetings, hearing what the decisions are, discuss it, but you have to adhere to the programme of action of the UDF as an affiliate? -- If you are prepared to adhere to those you are open, you are welcome to affiliate.

That is ... -- But in actual fact the structure within itself is that the organisations themselves will maintain their autonomy and that means now that anything that the (20) organisation may be opposed to being decided on by all the other organisations at the General Council level does not mean that by such an opposition that organisation will lose its membership or its affiliation.

COURT: Well let us get some clarity Mr Vilakazi. The programme of action is not set out in the Working Principles or in the Declaration, is that correct? -- That is so.

So when you joined the UDF you either did or did not know what the programme of action was but you could not know what the programme of action would be in future? -- That is so. (30)

Now/....

Now is it not implicit in paragraph 5.2 that should one not be prepared to go along with the programme of action of the UDF you would have to resign? -- No, that is a bail(?) line being put to encourage unity amongst the affiliates as I see it, that when there is a project or a programme of action being drawn that participation must be maximum. But if, what I know in actual fact what is, for these are Working Principles, these are working principles of this organisation at its formation and what I know in practice is that autonomy is retained even with affiliation. So as such if an organisation does not (10) feel like going into that particular programme it can still, without losing affiliation, that is my understanding of it.

ASSESSOR (PROF JOUBERT): Mr Vilakazi how did you when you affiliated, when the VCA affiliated, understand paragraph 6, "Rights of Members", 6.1 and 6.2? -- The rights of members there says all regional formations and member organisations shall have complete independence within the umbrella of the United Democratic Front provided that actions and policies of members are not inconsistent with the policy of the UDF. What I understand by that is that, and as I believe we understood it in (20) the Vaal Civic Association, is that whilst we were an organisation affiliated to the UDF we still maintained our autonomy but if what our policies and our actions are inconsistent with the policy of the United Democratic Front, the policy of those organisations coming together then we cannot be part of the United Democratic Front. So not participating in a programme cannot be seen to be not to be in loggerheads with the policy of the United Democratic Front because the very beginning of this sentence does maintain that organisations will maintain their autonomy. It is when these organisations, individual (30) organisations, /....

organisations, go out of their way doing things that the people in the United Democratic Front are not agreed on that such an organisation then will cease to be a member of the United Democratic Front.

MR JACOBS: Mr Vilakazi is it not that, so that UDF, that you have some scope, that there are two kinds of projects. One under the direct control according to the plan of action and the policy and aims of the UDF called National Campaigns and such and then they allow you scope as an affiliate of UDF to also take up your own campaigns as long as they are not (10) inconsistent with the policy of the UDF? -- Much as that is true but that is not confined to campaigns only. If the UDF, if the UDF preaches unity amongst organisations and you find that there is an organisation that will oppose another organisation in a particular area to the extent that it will you know disorganise the other organisation both organisations being in one area and not really having the same scope, you find that the other is a labour organisations, the other is a community organisation, and you find that they are both affiliates and this labour organisation is busy meddling into the matters (20) of the community organisation or vice versa whereby there are some splits that come into being on the affected organisation. That will not be in line with the policy of the UDF of unity and as such such an organisation cannot be allowed to continue to be a member of the United Democratic Front. That is an example I am giving for my understanding.

COURT: Did you get the programme of action of the UDF before you affiliated? -- No I cannot remember we getting the programme of action of the United Democratic Front.

So you were prepared to go along with whatever the UDF (30) decided?/....

decided? -- My Lord, at the REGC(?) the programme of action would then be known what is the programme of action and in broad terms what we understood the programme of action being was the uniting of organisations in opposition of the apartheid, the new constitution and the Koornhof Bills. That is how I saw the programme of action as being within the United Democratic Front and that was acceptable to us. But to say that we did not receive a piece of paper, a document outlining in detail the programme of action of the United Democratic Front will be inaccurate evidence as I do not remember the Vaal (10) Civic Association receiving that, at least at the meetings that I attended.

MR JACOBS: And the Vaal Civic Association did not even try to find out, although they put great stock on the Working Principles they did not try to find out from UDF what they mean by their programme of action? -- Well that is what we understood by the programme of action.

Do you differentiate between aims, objects and programme of action? -- Yes, because aims and objects will stand aside and then how to get to these aims and objects then you (20) have to have a programme of action which will comprise of protests and what type of protests.

And is it not more so that it is the aim of the UDF to get the people to organise and to mobilise and getting them together? -- That is so.

All the people, that is the aim? And that is quite, something quite different from a project, a plan of action, a programme of action? -- Well it is an aim again, it is part of the programme of action of the United Democratic Front.

COURT: Well let us not jump about, the aims of the UDF (30)

are/....

are set out in paragraph 3, 3.1, 3.2 and 3.3, to oppose the constitution and Koornhof Bills as decided at the National Conference, develop the maximum possible participation in the Front, to encourage and assist democratic and full participation in the UDF. Now these are the aims set out on the same page, at the top of the page? -- That is so.

At the bottom of the page we find this reference to the programme of action to which you have committed yourself. So it cannot be one of the aims? So you went into something you did not know a thing about? -- No the programme of action (10) I would see it being built into the aims itself.

Yes.

ASSESSOR (PROF JOUBERT): Were you aware Mr Vilakazi of the Declaration set out at pages 4 and 5 when you affiliated?

-- Yes this was brought to the United Democratic Front, to the Vaal Civic Association when we enquired on affiliation to the United Democratic Front.

MR JACOBS: Mr Vilakazi do you know Mr Steve Shweti? -- No I have not met Mr Shweti himself.

Do you know that he is a member of the executive of the (20) UDF, National? -- Not at National. I knew him to be a member of the UDF at Border Region.

What is he in the Border Region? -- Sorry?

What office does he hold there? -- I think he was in the executive of the Border Region.

Was he the President? -- Well I cannot dispute that he was the president there.

And if he is the President is he also included as a President of a region, is he automatically part of the National Executive? -- I do not know if it is automatic. (30)

Pardon?/....

Pardon? -- I do not know if it makes him automatically a member of the National Executive. But I would see it as a normal thing to be.

Just to shorten this perhaps we can, I just took one of the exhibits nearest to my hand, EXHIBIT J1, that is the minutes of the National Executive Committee meeting held in Johannesburg on 10 and 11 November and Mr Steve Shweti's name appears as one of the members of the executive. Will you dispute that he is a member of the executive or not? -- I will not dispute that. (10)

Now I am going to put to you what Mr Shweti, as a high official in the UDF, said in a document drawn up by him on the assistance of accused no. 19 for special use by the UDF, and that is EXHIBIT C4, and the heading of that is "The United Democratic Front and the Struggle for National Democracy by Steve Shweti." And will you have a look at page 4. -- Document number?

COURT: Is it C4 you are referring to?

MR JACOBS: Yes sir, C4.

COURT: C4, page 4? -- Page 4. How do we know that this (20) document was drafted by Steve Shweti?

MR JACOBS: It appears on the top, I have read it out.

COURT: Oh yes.

MR JACOBS: Have you got the page, I see you are still paging through the document. Have you got page 4?

COURT: The pages are not very clearly numbered. Will you just count the pages. -- There is a page I have got which I assume is page 4.

MR JACOBS: In the middle of that, paragraph 3, "Democracy within the Front". Is that the one you have got? -- That is (30

the/....

the one I have got.

I am going to read from the second paragraph under that heading, "Democracy within the Front":

"I have designated a Front organisation as a compromise position that implies a give and take situation. Don't be over exerting and over demanding, allow a certain measure of flexibility within the broad framework of our policy. As an executive committee we should be able to take decision and formulate policy. At no single point in time should we ever address ourselves to affiliates(10) without a particular bias on any given issue. This is important and allows you the privilege of influencing the course of events. It is a privileged position because the prospective of any executive at any level will always be wider than that of affiliates who necessarily must be able to see only as far as their limited affiliate horizons. Once you have communicated your view to your affiliates you must not entertain ideas that it is gospel. The affiliates must discuss your viewpoint, criticise it, reject it or endorse it. In turn their(20) own standpoint is transmitted to the executive which in turn, after determining the most popular view point goes back to the affiliates and acquaint them with the latest detail. No matter how strongly one felt about one's particular point of view once a popular decision has been struck it becomes immediately binding on all affiliates. No dissent will be allowed. Otherwise if one continues to canvass the defeated position then one is operating a clique and obstructing action in progress. This tendency must be exposed to all affiliates in a (30)

political/....

political analysis which must undermine the destructive nature of cliques in a people's front and within the affiliate organisations themselves. At the same time no organisation must assert its popularity and unilaterally decide on a campaign without consultation with the most relevant organisation in relation to that campaign. To illustrate COSAS cannot unilaterally decide on a stay away without prior consultation with the sister labour union affiliates nor can any trade union unilaterally call upon students to boycott classes. Mistakes of (10) this nature are bound to rock the front and cause disunity. We must not undermine the various leadership of the diverse organisations at our command if we seek to advance revolutionary work."

Now do you agree this is quite a different viewpoint from yours about the autonomy of affiliates and it includes much more than what you said. That is the viewpoint of the UDF executive people? -- The UDF executive person.

Alright person. -- Yes it is, and he was giving his own view with regard to autonomy which view is different from (20) mine.

Do you say that he is incorrect on this? That he is not putting the UDF standpoint? -- I do not see him as putting UDF standpoint but I do not know the nature of this document and why was it drawn, was it for possible adoption, was it picking up views from regions with the possibility of adopting a particular view for policy in a growing organisation, in a growing front? As it is I will not be in a position to say but here I merely see this document, if it is drawn by Mr Steve Shweti, although I see his name there. I do not (30) know/....

know if I would have understood it if his name was right at the bottom of the whole thing, but it is up there as if it is directed to him and I am not in a position to say that, and I will not say that this is the UDF's viewpoint.

So if Mr Shweti is saying in this document that he is putting the executive's viewpoint, the UDF executive's viewpoint and ...

MR BIZOS: Where does he say that My Lord? He is arguing that, he is arguing an idea, with respect.

COURT: That is so Mr Jacobs. (10)

MR JACOBS: I just want to, you have to look ...

MR BIZOS: My Lord I am sorry, we are actually looking for the document but I am instructed, we will find the document and put it specifically in relation to this.

MR JACOBS: And I would like you to have a look at EXHIBIT C3, it is right in front of that one. According to this document, you can either read it or you can accept this that this is a letter written by accused no. 19, Popo Molefe, on behalf of UDF to the UDF President, P.O. Box 658, King William's Town and he is addressing it to "Dear Comrade Steve", that (20) is a letter written to Steve Shweti as the President of the UDF King William's Town. Will you accept that? -- I can accept this.

And in this he is asking him for this paper that you have seen as EXHIBIT C4, as a guideline to be used by UDF. If you have a look at Exhibit, are you reading it or can I go on? -- I do not know if it is possible for me to read this document in relation to the questions that I have been given.

Well I will ask you the

COURT: Well let us get the question first and then direct (30)
the/....

the witness' attention to the particular paragraph.

MR JACOBS: And this request of accused no. 19 was for Mr Steve Shweti to write a certain document or memorandum or whatever you would like to call it, and this one, C4, is that memorandum and I would like you to have a look at page 2 of C3. I will read it out:

"I think it will be helpful if in the course of discussing your topic you could attempt to show the different types of alliances and why it is necessary to form a particular type in each case. Also attempt to show that influences, (1) transformation from one type of front into another. Also attempt to show the balance between the profile of the front and that of affiliates. I think this aspect is very important because many of our activists are beginning to ask the following questions: Why does the UDF not become a Freedom Charter Front? Are we to compromise Freedom Charter for the sake of a tiny liberal non-Charter organisation? (c) Now that the elections are over is the UDF going to transform into a United Democratic movement, UDM. (20)

(d) Why does the UDF take a soft line in the face of attacks by the Black Consciousness organisations like AZAPO?

Once completed your paper will be circulated amongst activists and affiliates of the UDF for discussion. To this extent therefore yours is likely to be one of the most important documents of the Front. I therefore advise you to work out quite a comprehensive paper. Please forward your paper to the National head office on or before 25 September 1984. Sorry for the short notice, (30)

we/....

we are under pressure and would like NEC members to discuss the draft before the next sitting on 29 and 30 September 1984."

Would you accept then that this is a paper in answer to this request by accused no. 19? -- Yes I understand it to be a request from the General Secretary of the United Democratic Front to one of the Presidents of the United Democratic Front.

Do you accept then that it is also, according to this paper of Mr Shweti, that it is that affiliates must accept the majority vote on any object or subject? (10)

MR BIZOS: My Lord I am sorry to interrupt My Learned Friend but this is dated in September and it proposes discussion. But I submit if it is intended to put to the witness that this was UDF policy to contradict him, we want to draw Your Lordship's attention to paragraph 8.3 in EXHIBIT F, which are minutes of the meeting of the National Executive Committee on 21 and 22 January 1984, a date much nearer to the time when this issue of the rights and privileges of affiliates may have been of relevance to the witness and there is an interesting entry at 8.3 under the heading "Border": (20)

"The Border Region placed on record their dissatisfaction with the decision of the National Executive Committee of allowing flexibility to affiliates of the UDF."

So at at National Council Meeting it was felt that that flexibility existed and that the Border apparently thought that that was a bad thing.

C.511 COURT: What is your question Mr Jacobs?

MR JACOBS: Would you accept then that it is also part of the policy of the UDF that when a decision was taken ...

COURT: Well is it correct to put it in that way? A (30)

very/....

very important document is drafted by the President of the Border region for circulation and discussion at the next meeting of the National Executive Council. Does it appear that at that next meeting the document was accepted?

MR JACOBS: I will look into that sir and then I will....

COURT: Because then you can say it is policy of the UDF.

MR JACOBS: But I am asking him on general principle, on how he understands it. Can I put it like that without referring them to this document?

COURT: Yes, you can say that you were, your understanding(10) of their policy is as follows and does he agree.

MR JACOBS: Yes. Am I correct if I say that it is part of the policy of the UDF that when a decision is taken and the majority of the people decided in one direction then it binds an affiliate organisation? -- That is not my understanding of it.

And can you tell me what is your understanding, what is the position if a majority vote is cast? -- My understanding is that if there is a majority vote on a campaign for instance, and those organisations, not being in a position to re-assessing their position in favour of the particular campaign(20) then they have the right not to participate in that campaign.

COURT: Well can you give us any instance where this happened? And how often did it happen? -- Instance where it did not happen?

Where an affiliate refused to participate in any campaign, not because of inability but because of lack of enthusiasm? -- As I did not work within the United Democratic Front myself and as I was not a representative of the Vaal Civic Association to the Regional General Council I would not be in a position to now, to point out those affiliates. (30)

So/....

So it follows that you in the VCA and the organisations that you had contact with at no stage refused to go along with any campaign of the UDF? -- There had been quite a number of UDF campaigns and we in the Vaal Civic Association, for instance in the Coloured and Indian Referendum question, our participation was as far as giving our viewpoint only but because that did not affect us directly we did not go out to canvass in those areas in favour of the position.

Well let me qualify the question then, let me qualify that you never refused to go along with campaigns of the UDF (10) where it was expected by the UDF that you go along? -- Well I would see that as not going along with it because of the reasons being that we were not in that area and we did not go to that area to canvass against such a campaign.

MR JACOBS: Mr Vilakazi then another point that I want to clear up with you is the question, you said the VCA never worked together with COSAS in the Vaal or anywhere else? -- I said I knew that COSAS was affiliated to the United Democratic Front at National level but in the Vaal complex there was no official link that I knew between COSAS and the Vaal Civic (20) Association or any instances where we had dealings with COSAS in the Vaal Civic Association.

Do you know of any close working conditions existing between VCA and COSAS and also other organisations up till your arrest in 1984? -- Up till my arrest in 1984 there was only one situation where the organisations in the Vaal which affiliated to the United Democratic Front, because of the crisis situation in the Vaal complex were assisting one another with regard to the families that were affected by detentions, arrests and deaths, together with the Vaal Ministers (30)

Solidarity/....

Solidarity group.

When was that? -- That was in September.

Is that the meeting you referred to to sort of normalise things and having the people stop from further ... -- No, that was much much later.

And you also said that it was ...

COURT: Now could we just get the date then. What are occasions are you referring to now, being an occasion where they had a close working relationship, the VCA and COSAS? -- That is some time after the riots in the Vaal complex. (10)

Yes?

MR JACOBS: Is it only about the detentions? That you got close working relations at that time? -- No I did not say detentions only. I said about, because of the crisis situation that was there in the Vaal complex and because of a number of issues like detentions and deaths in families.

And you also said that it was the VCA's intention to get the people in the Vaal also to stabilise and to stop rioting and stop violence and so on, is that correct? -- That is so.

Now do you know anything about at National campaign (20) about a stay away?

COURT: When? -- In 1984 after the riots. More or less the

MR JACOBS: In 1984 after the riots. More or less the 5th and the 6th November 1984? -- Yes I read about it in the Press.

You said you read about it in the Press? -- That is so.

Did the VCA participate in the organising of this stay away? -- Not to my knowledge.

You are sure of that? -- I am sure, I do not know of any situation where the Vaal Civic Association was involved with that. (30)

Do you know what the VCA was doing during the period September-November and up till your arrest? -- I know that the chairman of the Vaal Civic Association himself, Reverend McCamel was now more confined to the activities of the Vaal Ministers Solidarity Group and he was very scarce on the Vaal Civic Association itself and the Vaal Civic Association. I knew it that together with other organisations in the Vaal complex, like the Detainees Parents Support Committee and the Evaton RATEPAYERS Association, were heading a structure that was a service structure, it was a centre that was there to (10) assist people with regard to people who were injured and how have the injuries affected their lives in their families and all like things, and to advise them as to which advice offices would be appropriate for them. So during that period until my arrest I knew the activities of the Vaal Civic Association to have been limited to that.

COURT: Was the Vaal Civic Association part of that service? Was it the Vaal Civic Association, Detainees Parents Support Committee and ERPA, the three? -- That is so.

Yes thank you. -- And other organisations who were not (20) directly part of it were also assisting there whenever they got the opportunity to assist. Now ever since the events in September the Vaal Civic Association did not go back to call further mass meetings but the concentration was now on this assistance in directing people to service organisations which would be of assistance to them. That is how I know the activity of the Vaal Civic Association to have been during that time.

MR JACOBS: I would like you to have, let us carry on with this, with EXHIBIT AB7(4). That is a pamphlet issued by (30)

COSAS, Transvaal Region. Do you know ...

COURT: I am sorry, this document refers to United African Motor and Allied Workers Union.

MR JACOBS: That is document 4, the first document AB7, the first document and there are a series of documents. The second document is COSAS.

COURT: Well let us number these documents, the first one, the one I referred to will be 1, the one with the COSAS on top will be 2, then we have handwritten notes, that will be 3. Then we have a typed documents "Workers, Workers, Build Support (10) for the Students Struggle". That will be document 4. Then we have a document called "Statement", that will be 5. Then we have a document called "Press Statement", that will be 6. It consists of a number of pages. Then we have a document again again United African Motor and Allied Workers Union of South Africa. This will be 7. And then we have a Transvaal Stay Away committee, this will be 8. Now which document are you referring to?

MR JACOBS: I am now referring to document 4. Would you agree this is a document issued by COSAS, Transvaal Region and (20) is a pamphlet? Have you got it, do you agree it is a pamphlet issued by COSAS, Transvaal? -- It does not say that it is issued by COSAS, Transvaal where I am reading.

There is a correction at the bottom of it "Issued by COSAS, Transvaal Region".

COURT: Well it is not in my copy. My copy has got nothing on it.

MR JACOBS: Then I suggest we get the original from, we have got the original here, this is a copy.

COURT: Well will you get the original for me. AEI. (30)

MR JACOBS: /....

MR JACOBS: Do you know anything of the Transvaal Stay Away Committee, or whether the VCA was part of it, part of the Transvaal Stay Away Committee? -- I never got to know the Vaal Civic Association being part of the Transvaal Stay Away Committee.

And if I suggest to you that the VCA was part of this Stay Away Committee? -- I would not agree with that since the chairman of the Vaal Civic Association, Reverend Lord McCamel had not informed me of the Vaal Civic Association being a member of such a committee. (10)

Will you have a look at document 6 then, the Press statement, I think it is, if I remember AB7(6). Have you got it in front of you? -- I have got it in front of me.

Now I will read the press statement:

"On the 10th of October 1984 the Congress of South African Students (COSAS) called on all organisations to meet at Khotso House with the aim of discussing the following issues: Education crisis, civic problems, labour problems. All COSAS branches in the Transvaal were present, from youth congresses, Vaal Civic Association, Paper and Allied Workers Union, GAWU, SASU, and SAMWU. A stay away from work decision was taken. A consultative committee consisting of COSAS regional members was formed, the task of the committee was to consult all the trade unions, civic associations, youth groups and other organisations. Another agreement was reached of holding a similar meeting with a broader representation from the 27th October 1984, venue Khotso House, time 1 p.m. On 27th October the meeting took place and went through the same issues as (20) (30) outlined/....

outlined in the previous agenda. But this time a concrete action was to be taken. The organisations present are the following:"

And then if you will have a look at no. 13 and no. 14, Vaal Civic Association again. And also the other, and then it goes on after relating the list of organisations present:

"Discussions circulated outrightly around the stay away. There was an agreement about the stay away. This will be for the 5th and 6th of November 1984, Monday and Tuesday. The regional stay away comes at a crucial (10) period in our history, comes at a period when our brothers and sisters are dying like flies, it comes at a time when many are cowering in South African prisons and police stations, it comes when over 100 lives had been lost already, when tears, smoke, rubber bullets had caused an unpleasant situation in many families, it comes when the spirit of Bongani Khumalo and Michale Lepotu still walks our hearts like (it seems to be) guilty wolves, oh yes only because of simple demands:

1. A demand for democratically elected SRC's, (20)
2. Abolition of age restrictions.
3. Release of Mandela, release of detained leaders.

We demand the resignation of community councils, the dummy institutions have been proved beyond any doubt that they do not serve the interests of the people and their only interest is to fill their pockets, for example 97 percent of the businesses are owned by them, they allocate the biggest building sites for them so that they can build their mansions while almost the entire community is living in shacks and these so-called squatter camps, the school kids are being sjambokked, (30)

tear/....

tear gassed and shot by the bandits called police. Now we want to know what have these councillors done to put that to an end? The answer is obvious, nothing that is why we demand their immediate resignation. We the people of the Transvaal demand the withdrawal of these terrorists who terrorise the township nicknamed police. Their presence disturbs the peaceful residents and we therefore say to Constables Louis Le Grange, Viljoen and their adopted babies by the name of councillors, meet these demands or else we have been long voicing out these grievances (10) verbally. Now we are making the first steps practically."

And it goes on like that:

"The people of the Transvaal we request them to unite in action but the call still remains 'Adapt or Die'. Meet our demands or face the wrath of the people. The ball is now rolling in the courts of the authorities. The powers that be, the government, for we are on the offensive and the march towards the democratic future. Issued by the Transvaal Area Committee."

This Press statement refers here that the Vaal was present (20) and was a part of this committee on the stay away. What do you say to that? -- Well I can see that the Vaal Civic Association was represented here according to these minutes, on point 14.

And I put it to you further that it was part of the Stay Away committee and it is even shown in Z1, that is document, there are also two documents there.

COURT: Now before we get to Z1 let us just place on record that in fact on the original of AB7(4) at the bottom thereof there is typed in "Issued by COSAS, Transvaal Region", (30)

which/....

which was not on the copy which I had. Now you were referring to Z?

MR JACOBS: Z1. There are two, I do not know if it is one document but one is in English and the other part is in a Bantu language. -- I did not hear the question?

COURT: We are still getting to it.

MR JACOBS: Have you got it in front of you, Z1? -- I have got Z1 in front of me.

There are two pages, the one, the first document is a stay away and the second document is in a Black language, (10) is that correct? Of the same pamphlet?

COURT: Are you saying that the one is the front and the other the back of the same pamphlet, that it is one pamphlet with two sides printed on? -- I am not sure because the original that we got is with the exhibit with the Court. Is it possible that we can have the adjournment then we can have the document and then I can after the adjournment come back and put this to him. I only got the copy that was made for everybody.

COURT: Well it seems to me that the original has disappeared. (20)

MR JACOBS: Mr Vilakazi would you say that the one, it is one and the same, the contents are the same in the English and in the other language? -- I will have to read it to be able to see that this is so.

COURT: Well we can come back to this after the luncheon adjournment.

COURT ADJOURNS FOR AN HOUR.

C.512 COURT RESUMES.

BAVUMILE HERBERT VILAKAZI: d.s.s.

(30)

FURTHER/....

FURTHER CROSS-EXAMINATION BY MR JACOBS: Mr Vilakazi I would like you to have a look so that we can get this in order, at EXHIBIT AB7(2).

COURT: Why do you call that document an exhibit? What makes it an exhibit?

MR JACOBS: It is the COSAS document.

COURT: What makes it an exhibit in this case?

MR JACOBS: Can I just make sure sir?

COURT: Yes I am sorry Mr Jacobs, there is a lacuna in the notes I have. Go ahead. (10)

MR JACOBS: Ek sal net elkeen hierna sê maar ek het dit dat dit erken is dat hierdie dokument is gevind ...

HOF: Dis in order, die erkennings is reg. Dit was ongelukkig nie aangeteken in my stukke nie. Gaan maar voort.

MR JACOBS: AB7(2). Edele ek weet nie of hulle gemerk is in u reeks as dokumente 1 en 2, ek het hulle vir gerief in hierdie geval. Die eerste een daar is 'n ander dokument en dan kom die tweede ene, is die een met die COSAS bo aan. Of hulle so onderskei was as dokument 1 en 2 nie.

COURT: Wel ons het hom maar nou weer oorgemerkt, ek hoop (20) dat ons by die nommering korrek gemerk het.

MR JACOBS: Document 2 is a letter of invitation issued by COSAS, have you got it in front of you? On top there is COSAS and the COSAS badge, logo of COSAS and it started

"WE in COSAS have pledge for support from all the workers organisations in the Transvaal Trade Unions, civics, youth organisations, to identify the role in support of the students demands in South Africa which are as follows:"

Have you got that document in front of you? -- I have a (30) similar/....

similar document.

The demands are:

"Release of all detained students, scrapping of all charges against them. Decision as to when examinations to be written and how. Issuing of text books to all students. Recognition of our demands."

And it goes on like this. I do not know there is, I have got "Invitation to a meeting sent to all different sectors of our country. Unfortunately they did not reach their destinies in time. We in COSAS propose a stay away (10) from work and school depending on how the workers will react to that. We urge our parents, workers, under the trade unions to fully identify themselves with our problems and therefore forge links and support us as children suffering under Bantu Education and the racist regime of Pretoria. We are requesting each union, civic and youth organisations in the Transvaal to discuss this issue with their membership and have their own conclusion over this stay away as to how long should it take. We would like each organisation to (20) send two delegates to a meeting that would be on the 27th October, venue Khotso House, time 12h00 p.m."

Do you agree that is a letter of invitation to all organisations in the Transvaal to support COSAS in the venture of the stay away? -- I can say that it is an invitation letter from COSAS to the said organisations in the Transvaal.

COURT: Well it is a proposed stay away from work and school which is to be discussed at the meeting of 27 October 1984? That is what the letter deals with? -- I can see that, yes.

Does it not strike you as strange that a couple of (30) school/....

school children could invite the rest of all the organisations to a meeting at Khotso House on the 27th of October? -- Here I see that it is a letter from COSAS as an organisation.

Yes, they are school children are they not? -- They are school children.

Yes. But what is strange to me that every organisation reacts and comes along? -- And comes along, probably because of the invitation from another organisation, and I can see that there are community organisations invited and trade union organisations invited in which organisations there are (10) elderly people and they responded to that invitation.

Well it would appear then that COSAS was one of the main participants in the "struggle", as it is called in this letter, is it not? -- Well COSAS was one of the organisations that participated in the struggle.

One of the main participants? -- Well I do not know the measure stick, I cannot say it is main.

MR JACOBS: And Mr Vilakazi this invitation I put it to you must have been received by the Vaal Civic Association as well because they did ... -- Well I do not know ... (20)

I am putting it to you they did send delegations and they were elected on the stay away committee? -- I do not know of the Vaal Civic Association receiving this invitation and I do not know of the Vaal Civic Association sending delegations there.

We will come to that. Tell me why, is it possible if it was received by the Vaal Civic Association and if they sent delegates and discussed this issue you were not provisioned with that, you do not know anything about it? -- If it was received by the Vaal Civic Association and if it was to (30)

be/....

be discussed with the delegates, with the members of the Vaal Civic Association, the invitation is to a meeting of the 27th of October and I do not see the date on which it was sent out, the invitation was sent out.

COURT: Well let us get this clear. Until you gave evidence here in court did you hear of this meeting of 27 October 1984 and of the constitution of a stay away committee which organised the stay away? -- Pardon?

Is this the first time in court that you heard of this meeting of 27 October 1984 and of the fact that the VCA (10) sent delegates, if that is so, and of the fact that they participated in the Transvaal Stay Away Committee? -- That is so.

This is the first time you heard of it? -- This is the first time I heard of it.

So if these facts are correct then it means you are singularly uninformed of the workings of the VCA? -- If this was the situation the Reverend Lord McCamel was detained some time towards the end of October, in the beginning of November, and during which time he was still in touch with me. And if this type of invitation would have reached the Vaal Civic (20) Association it would have been directed to him and I would have got to know of it from him, and there are other area committees that were there in the area, if this letter had been there my area would have been, now that there was an area committee, would have not been overlooked over this fact.

MR JACOBS: Mr Vilakazi do you know anything, do you know that there was a stay away? -- I knew about the stay away, yes.

Did you people in the Vaal participate in the stay away? -- I knew about the stay away when it was confined to Johannesburg and it was called by the Stay Away Committee and (30)

later/....

later in the Press is when we learnt that the stay away was comprised of organisations, even the Vaal being mentioned, even organisations from the Vaal. That is how it came out, in the Press, and it was not mentioned in the said organisations by name. I remember well it was just organisations from these areas and those were put out in the Press and we in the Vaal Civic Association, we in my committee, did not know of this organisation that was involved in that stay away, and we even took it it could have been trade unions in the Vaal who were involved but even then I could not get to know (10) exactly who was involved in the Vaal complex.

COURT: Did you discuss this aspect at the VCA? -- I did enquire with, when the Press was saying the stay away is spreading to the Vaal complex I did enquire from a member of the committee, Mr Nkopane, if he knew about this thing, who was my chairman. He did not know anything about it. Unfortunately Reverend McCamel then was in detention so I could not get any information further than that. Otherwise the Vaal Civic Association itself at that stage was disorganised because the chairman was in detention and the Vice-Chairman and the (20) area representative for Zone 7 we did not know where they were, we were still enquiring if they were in detention themselves too.

ASSESSOR (MR KRÜGEL): Does that imply Mr Vilakazi, if I may put the question, that decisions were taken somewhere at a high level about actions locally which the local people did not know about? -- Well I do not know if this would be the situation because later I read also in the press about the UDF's disassociation with this stay away, that it was not party to this stay away. That was some time in November where (30)

it/....

it was in the Press that the UDF was not party to this stay away itself, and later I remember there were charges that were brought against the people who were in the Stay Away Committee, I think one of them was a Mr Madi(?), and we did not know anything about anybody in the Vaal complex who was charged as being part of the member of the Stay Away committee. So when these documents came into court and I saw the Vaal Civic Association there I even discussed then with my co-accused if anybody amongst them knew about that, from the Vaal complex. Nobody knew anything about this situation. (10)

COURT: Now have you ever heard of an organisation called VAYCO, V-A-Y-C-O? -- No My Lord.

Does it not stand for Vaal Youth Congress? -- It could but at the time of my detention there was no youth organisation existing in the Vaal complex.

Well according to the Press statements the Vaal Youth Congress was present at this meeting of 27 October 1984. -- I do not dispute the Press report but I personally did not also know of the existence of such an organisation or who were the members of the Vaal Youth Congress. (20)

MR JACOBS: Mr Vilakazi you said you do not know of any youth organisation in the Vaal up till the time of your arrest? -- The Youth Congress.

Any other youth organisation? -- Well I knew of church organisations, church youth organisations that were there.

But did you know about any youth organisation being formed in the time since the inauguration of Vaal Civic Association? -- Since the, well I had heard that there was a youth organisation in Bophelong but that was not called Vaal Youth Organisation or Youth Congress. (30)

So/....

So you are not altogether correct when you said you do not know about any youth organisation in the Vaal? -- For the Vaal to be Vaal Youth Congress as His Lordship suggested the name could be.

Because it was in McCamel's report to the UDF, is that correct? -- Well what was in McCamel's report, whether it referred to the same organisation that I had heard existed in Bophelong I do not know.

Yes. You see I would like you to have a look now at EXHIBIT AB9. Now EXHIBIT Z1, have you seen that document (10) in the Vaal, being distributed in the Vaal?

COURT: Sorry, are we dealing with AB9 or Z1?

MR JACOBS: No AB9 it seems is not an exhibit.

COURT: AB9 has been admitted, the first document.

MR JACOBS: The first document, but I wanted to refer to the fourth document.

COURT: Are we back to Z1?

MR JACOBS: Z1. Have you seen this, this is a pamphlet, is that correct? -- It looks like a pamphlet to me.

And document 2, this pamphlet, document 2 is it a (20) pamphlet in relation to the stay away? -- It is so.

On the 5th and 6th November 1984? -- That is so.

COURT: I am sorry I missed the answer, did you see it in the Vaal? -- No My Lord.

MR JACOBS: And according to that, issued by, at the bottom of it Transvaal Stay Away Committee composed of organisations from the following areas: Soweto, Krugersdorp, Randfontein, Germiston, Alexandra, Kempton Park, Pretoria, Boksburg, Benoni, Brakpan, Springs, Pietersburg, Heidelberg and the Vaal. And in conjunction with the statement, the Press statement (30)

that/....

that was referred to previously and to which the Court also referred it seems as if the Vaal Civic Association was part of this ...

MR BIZOS: No, with respect My Lord, organisations from the Vaal. What the witness, we have refrained from objecting. The witness has not seen this document, he knows nothing about it and he is now being asked to have a look at this document, have a look at another document and then what I submit is mis-interpretation is put into it that organisations from the Vaal, it is quite obvious that whoever it was who issued this (10) was very cagey about his or her or their identity.

COURT: Mr Jacobs it does not state which organisation from the Vaal or whether there was only one organisation from the Vaal. It could have been one organisation each from Soweto, Krugersdorp, etcetera, etcetera.

MR JACOBS: And do you agree it was issued then from organisations from the Vaal? -- I cannot agree when I do not know the document, I do not know the source of the document.

And then if you read this in regard to EXHIBIT AB7(6), that is the Press statement, at 27 October that the meeting (20) took place and went through the same issues as outlined in the previous agenda, this time a concrete action was to be taken, the organisations present are the following: and no. 14 is the Vaal Civic Association. Do you agree to that?

MR BIZOS: Well what is the witness being asked ...

COURT: What do you want the witness to say? That it is on this piece of paper? Well whether it is or is not I can see that myself and he says he knows nothing about this.

MR JACOBS: Can you tell, if it is so, although you knew nothing about this that the VCA was part of this committee (30)

the/...

the stay away committee, and arranging the stay away. Would you agree that that is not in line with your own evidence that you tried to get peace in the Vaal, but here after a stay away in the Vaal of 3 September with a lot of troubles the VCA was with other organisations again organising for a stay away? -- If I could be told who represented the Vaal Civic Association here then I could consult with that person in this regard. The VCA I contend was not represented in this situation to my knowledge and the chairman was not there, he was in detention as well. The chairman of my area committee (10) did not know anything about this himself.

There were still ...

COURT: Was Mr McCamel detained on the 27th, before 27 October? -- It was in the period between the, the end, the last week, I am not precisely sure of the date but it was the end of October and the first week of November.

MR JACOBS: At that stage were there other members of the Vaal Action Committee, of VCA or members of the area committees still in the Vaal? -- There were in the Vaal still other members of the committee. (20)

And did they carry on the functions of the VCA in the Vaal? -- After the events of September it was impracticable for VCA to continue with the work.

I would like you to have a look at a document here from the workers, it is a document, it has not been handed in as an exhibit so far. It is a document from the Federation of South African Trade Unions and it relates to a meeting between COSAS, UDF, 27th October 1984 in Khotso House in Johannesburg. Will you accept that this document relates to the meeting in connection with the stay away? -- I cannot confirm that (30)

this/....

this document relates to a meeting called in connection with the stay away. Because I can see the names of organisations, there is a heading which says "Organisational Top Attendance" which I do not understand what it means and then it lists names of people and their positions in their particular organisations and it does not say that this is in connection with a stay away.

In the last paragraph will you agree that there is reference there to organisations were bound to be in this meeting as the UDF and COSAS, big union like FOSATU and (10) CASU(?), the test to be on the 5th and the 6th of the eleventh month and ...

COURT: What is the status of this document Mr Jacobs?

MR JACOBS: I just want to know if he will accept it as ...

COURT: Well whether he accepts it or not is irrelevant to me if he does not know anything about it.

MR JACOBS: As the Court pleases, I will try ...

COURT: You can prove it through another witness if you can but I cannot see how this document will help the Court at this stage through this witness. (20)

MR JACOBS: Can you tell me Jerry Thlopane, accused 14 I think, do you know what position he is holding in what organisation? -- Who?

Jerry, accused no. 14? -- Mr Thlopane, I knew him to be an organiser in COSAS.

Right we will leave it at that. Now I just want to take up one point with you.

COURT: Just a moment, will you take these documents back please, they are not exhibits.

MR JACOBS: Mr Vilakazi I am just going to handle with you (30)
this/....

this question of the peacefulness of UDF shortly, very shortly. During your evidence ...

COURT: Is that a promise or a hope?

MR JACOBS: It is a promise. During your evidence-in-chief and in cross-examination you regularly intimated and stressed it to the Court that UDF is a peaceful organisation? -- That is so.

On what do you base your opinion or your facts? -- I based my opinion and my facts on the peaceful methods applied by the United Democratic Front to voice out the aspirations (10) of its member affiliates as the United Democratic Front and many many other people of South Africa.

Where did you get your information from for your premise? -- Apart from it being general knowledge throughout the country but because of the approach to problems that the UDF had embarked on and the manner in which it has handled its campaigns and also that those who went into the UDF as it is in the Declaration and the Working Principles of the United Democratic Front went there with the belief that with the UDF they will maintain unity in opposing unjust laws in the (20) country and apartheid.

Now did you have any personal experience, personal knowledge, did you try to gain personal knowledge whether UDF was peaceful or not? -- Yes because I have never heard UDF suggesting anything that is not peaceful.

Is your knowledge only on the basis of what you heard generally or from other people? -- From other people too, and from the Vaal Civic Association. That is how the UDF is regarded.

So how did you glean your knowledge from the Vaal Civic (30) Association?/....

Association? -- Through discussions among the members of the executive.

Of? -- The executive of the Vaal Civic Association.

So what personal experience did they have on this matter?

-- Well they were affiliates of the United Democratic Front.

But that does not say anything? -- It does say a lot.

It is all hearsay what, only general hearsay that you base your statement on? -- There has never been a report from the UDF General Council that indicated to the Vaal Civic Association that the United Democratic Front is not a peaceful (10) organisation.

Is it not the truth then that you cannot say? -- Unless I know the contrary I will keep on knowing what the picture is.

I want to put to you EXHIBIT, I am going to do only one, AAD1. I prepared a copy for you, it is a loose ...

COURT: Is this document before the Court already?

MR JACOBS: Yes sir, AAD1, it was, this is a, ex facie this document it is a National General Council of the 5, 6 and 7 April 1985. It is the minutes of that meeting. Do you agree? -- It is a bit difficult for me to agree that these (20) are actual minutes of the National General council.

And points from the keynote address, and I would like to read to you this:

"Serious crisis in our ranks. We must break down indiscriminlike(?) regionalism, we must build unity amongst regions and factions. The UDF has successfully mobilised against new constitution and the Koornhof Bills. We see the State strategy of co-option and repression. The UDF has done the following: destroyed the myth of the homelands, made Black Local Authorities unworkable and (30)

destroyed/....

destroyed the credibility of the Tricameral system."

So do you agree that it is the UDF, consisting of its organisations, that made Black Local Authorities unworkable? -- As I do not know who the author of this report is and whether this is a report based on that particular meeting as referred to by the advocate here I cannot readily say this is a UDF report and I cannot see it being a report by a person within the United Democratic Front, and with the question on the Black Local Authorities being made unworkable by the UDF I do not know of the UDF and its affiliates making the Local, the (10) Black Local Authorities unworkable.

Well then with the leave of the Court I would like to hand in another exhibit at this stage. Would you accept a UDF update as a legal UDF document?

COURT: What do you mean "legal"?

MR JACOBS: Official UDF document.

COURT: Official.

MR BIZOS: May I draw attention in relation to the previous one that it is in 1985, some five months after the accused's detention. (20)

COURT: Yes.

MR JACOBS: That is so. Have you got that document in front of you? -- This one?

COURT: The one you have should be the UDF Update. -- No.

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MR BIZOS: My Lord before any questions are put I am prepared, assume that we accept that on the face of it this is a UDF document it is outside the period of the indictment, it is some two years after the accused's detention, and I submit that the State is confined to the period of the indictment and a person(30) cannot/...

cannot be asked to comment on matters where it has not been suggested that he has had anything to do with and has been in custody.

HOF: Wat sê u daarvan mnr Jacobs?

MNR JACOBS: Edele in die eerste instansie ek dink ek is tenvolte geregtig as dit gaan, al is dit 'n dokument wat later uitgegee is wat terugverwys na die bedoeling van die betrokke organisasie se doelstellings ten tye van die plaasvind van hierdie gebeure wat hier ter sake is. Dit gaan hierso nie om feite te bewys wat sou gebeur het nie maar (10) dit gaan hier om opset te bewys, om die opset en die feit dat UDF se opset was nie "peaceful" soos die getuie gesê het nie. Dan is ek geregtig, al is dit ook in 'n dokument agterna gesê dat ek kan verwys na 'n dokument vroeër.

HOF: Watter deel wil u nou vrystel?

MNR JACOBS: Ek wil verwys na die middelste deel, "Update, Special Focus. Three Years of United Action".

HOF: Bladsy?

MR JACOBS: Dit is tussen bladsye 10 en 11, in the middleblad, daar is 'n hele spesiale bylaag, en dit gee daarso, as u kyk (20) daar "Three Years of United Action. The UDF has achieved a great deal in its three year history.

MR BIZOS: Yes My Lord could I address Your Lordship on this specifically?

COURT: Yes.

MR BIZOS: It is true that statements made in furtherance of a conspiracy are admissible if they are executive statements. Historical account, even by a co-conspirator, is inadmissible. Somebody cannot come along and say this is what happened as part of the historical, as part of the historical relation. (30)

If/...

If My Learned Friend wanted to call the author of this document as a witness he would have been prepared to do so and we would possibly have been happy to cross-examine him but I have not read the document and I do not know what the, but in order that there may be some limitation in relation to this the personnel in organisations change, the structures change from time to time and here we have a situation that it is more than, or almost two years after the accused's detention and he is being asked upon to comment on what somebody says on the history of the matter. I submit, with respect, that(10) it is inadmissible or in any event even if its admissibility can be justified on a somehow or other basis, and we will see later on what use we can make of it, some limitation must be placed on the State putting in new documents in this way which are someone's view of a historical perspective.

HOF: Wat sê u daarvan?

MNR JACOBS: Dit gaan nie eindlik oor 'n historical perspective nie. Dit gaan oor wat UDF se gesindheid was ten tye van die sameswering.

HOF: Maar dit is wat iemand nou sê agterna. Geskietkundig...(20)

MNR JACOBS: Maar dit verklaar die organisasie wat nog altyd aangaan met sy aktiwiteite, dit het nog nie, dit verklaar die organisasie se doelstelling op die stadium toe die beskuldigde die optrede gepleeg het en dat, wat hulle doelstelling was, dat dit nie kan gesê word dit is....

HOF: Ja maar dit is 'n dokument. Die dokument is, u wil die inhoud van die dokument gebruik as 'n verklaring van iemand, die iemand synde in 'n redelike gesagsposisie in die UDF. Sê jou verklaring is toelaatbaar van een samesweerder teen 'n ander samesweerder as dit is ten uitvoering van sameswering.(30)

Hierdie/...

Hierdie dokument is nie ten uitvoering van die sameswering nie want u sameswering lê die hele tyd in die verlede. Waarvoor is die dokument dan? Om 'n geskiedkundige oorsig te gee? Nou wat u eintlik doen is u sê Meneer ek sê dat die geskiedenis A was sonder om mnr X te roep. Is dit nie hoorsê nie?

MNR JACOBS: Nee Edele my respekvolle submissie dit is nie hoorsê nie want dit gee die weergawe van die doelstelling van die organisasie vanaf jaar vroeg....

HOF: Ja soos mnr X dit aan ons gee wat nie voor die Hof is nie. Is dit nie hoorsê nie? (10)

MNR JACOBS: Edele kan ek, ek het nie verwag dat my Geleerde Vriend sal op hierdie beswaar maak nie...

HOF: Wel ons kan die verdaging neem en dan kan u alby my môre oggend daarop toespreek.

COURT ADJOURNS UNTIL 5 FEBRUARY 1987.

DELMAS TREASON TRIAL 1985-1989

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