

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

SAAKNOMMER: CC 482/85

PRETORIA

1988-12-14

DIE STAAT teen :

PATRICK MABUYA BALEKA EN 21  
ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST en  
ASSESSOR : MNR. W.F. KRUGEL

NAMENS DIE STAAT:

ADV. P.B. JACOBS  
ADV. P. FICK  
ADV. H. SMITH

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: ONSKULDI

KONTRAKTEURS :

LUBBE OPNAMES

VOLUME 466



COURT RESUMES AT 14h00.

COURT: We, both my assessor and I have problems next week and we for that reason intend to sit late this afternoon.

MR BIZOS: As your lordship pleases.

FURTHER ADDRESS BY MR BIZOS: Your lordship's and your learned assessor's schedules, the names have been added which may quicken the pace a little. If your lordship looks at IC.8 on page 2 the first two references to IC.8. This comes under the category of your lordship taking an active part in the questioning in the evidence-in-chief and introducing a theme (10) with IC.8. I will recall it to your lordship's memory that my learned friend Mr Fick was leading the witness and he said that there was a decision by AZAPO not to take part in the elections. One of the issues in this case was whether people had the right not to take part in the elections or not. In the two references that we give we submit that a fair reading of them, judging by your lordship's questions, is that if you do not participate in elections then you are in favour of chaos. And that in my submission was a theme introduced by your lordship and it must be particularly disconcerting to (20) defence witnesses and the accused who have to come and persuade your lordship that they considered it their right, not only not to take part in the elections themselves but to actively campaign that their fellow citizens should not take part in the elections. Then the next paragraph at page 768, again your lordship examines IC.8 in-chief and the effect of your lordship's questions was, the witness had used the expression "to disturb all the things that we have got to do with the local authorities" and your lordship had asked him what he meant by that and he said that they were going to take part in (30) boycott/....



boycott action and then your lordship asked him questions which the witness had difficulty with, but on page 769 your lordship suggests to him that if chaos was again the intention and that if it was only a temporary goal in the beginning, to merely disturb eventually was to ensure the destruction of the BLA system. That comes from your lordship's questions in-chief. Now the next one is also in, on page 784. I am sorry on top of page 3, that is your lordship asking questions about the Kill Mahlatsi poster. The next one is one that I want to specifically refer your lordship to, is that the witness (10) IC.8 had not tried, had tried to connect accused nos. 2, 8, 13 and 17 with the destruction of what was described as a bus shelter and your lordship asked "Was beskuldigdes nrs 2, 8, 13, en 17 bewus van die voorval". Now it may be an attempt to ascertain the truth but it has got to be taken in context. The prosecutor has a statement, he chooses not to ask any questions about it, we have an accomplice before the court who is in detention and what must be going through his mind is how best can he get out of his difficult situation. Questions of that nature put by the court, in our respectful submission, (20) may give him an idea that he, wrongly, that he has to answer that sort of question in the affirmative. The fact that he did not accept the invitation does not make it any more objectionable in, or any less objectionable in our respectful submission. And also these four accused were sitting in the dock, what will be going through their minds? Why is the person who is to be decided on our guilt or innocence at the invitation of the state who has called a witness should be asking whether we were personally involved about this. Then the next one, on page 789 if your lordship will bear with me I want to (30)

look/.....



look at the schedule. Yes an objection was noted and your lordship did not respond to the objection at all. The next one in volume 19 page 883, 7 to 14, in answer again to a question by your lordship, if my memory serves me correctly, in order to try and equate AZAPO with the PAC. Then the next one is on page 949, your lordship made it quite clear that your lordship would not allow the investigation into the treatment of the witness whilst he was in detention. The next one at 1 070 was in the circumstances, we submit, an unfortunate remark by your lordship to the witness which the witness (10) adopted. Your lordship heard the evidence that someone said "There is the dog". Your lordship found it necessary to suggest to the witness that a dog is to be destroyed. The next one is also a PAC/AZAPO equation. The next one is not your lordship's question by your lordship's assessor's question. The witness was asked for an expression of opinion whether people there were ready to fight and a number of questions were asked in relation to the readiness of the people to fight. We submit that these are matters which should have been left to counsel in the case to ask about. The next one on page 1 379 in (20) relation to the role played by Mohage in the investigation which was made clear at that early stage that we had reason to believe that Mr Mohage was responsible, rightly or wrongly. We had that, but we were not allowed to ask questions about it. The next one, at 1 386 your lordship answers the question for the witness. If your lordship bears with me I just want to make sure that what is on page 1 420. Oh yes I now remember. The cross-examiner, it was made in very uncertain terms in relation to IC.9 this is, that questions in relation to the nature of his employment should not be directed to him. We(30) considered/....



considered it relevant and we submit that it eventually did become relevant having regard to what he did and what he did not do with the notes that he said that he took at the meeting of the 19th. The, in relation to Lord McCamel your lordship, at the first reference takes over the examination-in-chief of the witness for almost two pages. The next reference reads with, is in direct, your lordship takes up the theme as to whether there were previous riots. And that was a theme that was introduced by your lordship for the first time in the trial. 1 644, again with McCamel, your lordship interrupts (10) my learned friend Mr Chaskalson and introduces almost two pages of examination of McCamel in relation to the turning of funerals into political occasions. This again is a new theme that is introduced by your lordship for the first time and may I remind your lordship that your lordship later said that this was not part of the indictment, that they were not pleaded but it was a theme which was thereafter taken up by the state and Brigadier Viljoen and others were led, and then your lordship again said eventually that your lordship did not know why so much time had been spent on them. Then on 1 649 the leading (20) questions put by your lordship to McCamel and using expressions such as the belief that the council had received their just desserts. 1 653, again leading questions put to McCamel that the events at the march were seen as a victory. The 1 655 reference, your lordship's assessor puts AN.15 to the witness suggesting that selective violence was still envisaged. To the witness to whom this document was not connected with, if my memory serves me correctly. Then the Reverend Mahlatsi. No one had suggested that anything would happen to anybody if they did not stayaway until your lordship asked Mr Mahlatsi (30)

the/....



the question for the first time. The next passage, 1 986, the witness had been particularly responsive to the cross-examiner about the peaceful nature of the march but then obviously he is diverted away from those favourable responses to the accused when your lordship asked him whether there were any stones on the road. Now IC.8 had said nothing about that. It is more than likely, or there is at least a possibility, that a person in detention and an accomplice in a weak position might be tempted, especially the questioning coming from the court, to answer in the affirmative. Then in relation to Mr Piet(10) Mokoena the cross-examination is taken over in relation to the bottlestores and an answer is invited that there were open tenders. This, taken with other questions asked by your lordship and learned assessor must have given the accused an impression that not only were they not entitled to use strident language against the councillors but that members of the court were anxious that they should not be seen as corrupt persons. Your lordship's assessor, at 2 275, 26 to 2 280, 24, that is quite a number of pages, an attempt is made to elicit information which would justify increasing the rental. We would (20) submit that that was not an issue which should have been investigated by a member of, by the initiative, or by a member of the court. In relation to Mr Tsina, without any suggestion up to that stage the question is asked "Were there assaults at councillors' meetings". And at the next reference the, a fair interpretation of the passage is that assistance was given to an obviously unsatisfactory witness who we would submit ought to have been chided for his answers rather than assisted. Then we give two lengthy references in relation to Phosisi. I want to spend just a short while in relation to (30) that, /....



that, to recall to your lordship's memory that if this witness' evidence was allowed to stand many of the accused, or practically all of the accused who had taken part in the march would have been convicted of a very serious offence, if not the murder of Caesar Motjeane. Her evidence, in our respectful submission despite your lordship's benevolent finding that she was merely unreliable, was clearly false. She said that she was on the corner of the intersection when in truth and in fact she was at a place where she could not possibly see. It must have struck the accused as strange for your lordship, during the (10) application for a discharge, to say that she was probably referring to another march and this is a clear example where a witness ought to have been disbelieved in strong terms, rather than the terms in which your lordship dismissed her evidence. The witness Matthysen, our learned friend Mr Jacobs asked him 57 questions and your lordship asked him 109. That is in his evidence-in-chief. We submit that that is a clear example of your lordship taking over. If the state had a case represented by senior counsel it should have been allowed to try and put the evidence before the court without your lord-(20) ship's assistance. The mayor Esau Mathlatsi, at 3 158, your lordship will see there of an accusation to the cross-examiner that he had the whole picture wrong, again. The cross-examiner was busy cross-examining Mr Mahlatsi on Mr Mahlatsi's evidence. The reason why your lordship thought that counsel had it wrong again was because your lordship was working upon the correctness of Mr Louw's evidence that had been given previously. Your lordship's assessor at 3 355 found it necessary to discredit a report in the Sunday Mirror. We are not unmindful that newspaper reports may be incorrect or wrong but we (30)

submit/....



submit with respect that your lordship, and particularly your lordship's assessor, by this and other questions showed a sensitivity to criticism of the council. We then deal with - if your lordship bears with me, if your lordship bears with me I have notes on Brigadier Viljoen next on my original notes. Could I ask, once we have taken it on the record, on a running basis to inter-lineate after Mahlatsi Brigadier Viljoen and to make notes of a couple of points. I am sorry it was, the schedules were prepared for your lordship's convenience in order to save time, hurriedly, and this, and the references are at (10) 3 565 and in relation to that your lordship participates in the examination of Brigadier Viljoen to show that the funerals of the 15th and the 23rd, 1984, are used to sweep up the masses. Then your lordship grants a short, this evidence was given in the absence of senior counsel. Mr Tip asks for a postponement because these two funerals have to be investigated and your lordship grants that at page 3 398. And then there is cross-examination on the funerals at 3 467. We would submit that that cross-examination showed that Brigadier Viljoen was a most unsatisfactory witness and during the course of that (20) cross-examination your lordship then for the first time indicated that this, these funerals and this evidence had nothing to do with the case, or very little to do with the case. In fact at one stage, at 3 565, your lordship says the funeral is entirely irrelevant. We submit that the impression may have been created that your lordship showed considerable interest during the evidence of Brigadier Viljoen and asked specific questions which could, the answers of which were prejudicial to the accused but once the evidence of Brigadier Viljoen was shown to be, to say the least, unreliable and in certain (30) respects/....



respects very embarrassing to him, having regard to his behaviour on the tape, we were told that the evidence was irrelevant and it may well be that some of your lordship's findings at the end are based to a very large extent on certain aspects on the evidence of Brigadier Viljoen who is said in some respects to be an expert. Then if I may turn to the schedule, in Molanto(?), the witness is asked to point out the person with whom he had dealings. The person says, after looking at the accused in the dock says that he does not see the persons whose names he has heard and your lordship then (10) directs the witness to look again. Then as far as IC.10 is concerned your lordship makes a credibility finding by discrediting her instead of investigating. Then the witness, Decorlen(?), again your lordship's assessor shows a keen interest to show that the rentals in Huhudi were disproportionately lower than the increases in salaries. This can only be justified on the basis that councils are not bad after all, not one of the main issues in this case. Then the witness Matloko, your lordship tells the witness "Don't just agree because counsel says so". We submit that there was no (20) evidence that the witness was merely agreeing to what counsel was putting.

COURT: You must remember that when a witness gives an answer and it elicits that response from a judge he gives that response because he sees the witness' reaction in the witness box, and that goes for this particular instance. I put that on record. Go ahead.

MR BIZOS: I just want to take the next one my lord. Then IC.12, just bear with me one moment please my lord. Your lordship for over three pages took over the examination of (30) this/....



this witness on the video. Your lordship takes over the examination, focussing on COSAS for approximately four pages. And may we say in relation to COSAS that the less evidence there appeared to be and the less attention the state paid to that particular issue the, we submit the record will show the greater the intervention by your lordship. And then the 4 340, the questions asked are directed to undermine the evidence that the affiliates were independent of the UDF. Then IC.15, it was made clear to the witness that a state of mind of not believing in violence and regarding certain ANC leaders as (10) their leaders is a completely non-acceptable state of facts. In relation to IC.15, again, your lordship examines the witness for over three pages in relation to songs. Then the 4 876 reference of IC.18 relates to your lordship's view of a witness who is in any way associated with TSO(?) and whether or not TSO is to be considered an affiliate of the UDF or not. Then IC.19, again in our respectful submission that what everyone referred to as a removal, taking the two passages together, what everyone referred to as a removal of the persons concerned as one of the grievances is described as a (20) temporary relocation in order to provide housing. Your lordship's impatience on 5 203 by the remark to counsel "Ask the questions that you feel fit but just stick to the correct facts", in circumstances we submit where the stricture was not warranted. Then the 5 035 reference, in the context your lordship's definition of a vigilante as one of a group of citizens coming together to defend themselves or their property in the context in which the witness was giving evidence we will submit is hardly appropriate. IC.19 still, 5 070 your lordship's assessor is again concerned to justify the executive (30) action/....



action by justifying the removal on the basis that there was illegal squatting. The next is Letsunyo(?), at 5 185. Your lordship leads the witness to say that certain threats that she had deposed to were seriously intended. Then the witness Ndou, if your lordship bears with me - I am sorry that I cannot locate that at the moment. I may come back to it. There is obviously some mistake in the transposition of the clearer copy. Then IC.21 at 5 262. The cross-examination is interrupted, when trying to establish that Mr Mazibuko was going to resign anyway. Could I ask your lordship to add the reference 5 264(10) line 29 to 5 266 line 2. I beg your pardon they are taken together, it is written down. Then the witness Mquba(?), your lordship tries to introduce Sukize Bananza to an organisation in order to determine as to how he was introduced. Sergeant Mquba, having said that he cannot remember what Goniwa said your lordship persisted in questioning him and eventually some little detail came out. Warrant Officer Waters, this your lordship will find at the references given, that my learned friend Mr Tip had elicited a major contradiction but your lordship exhibits what in my respectful (20) submission may be described as considerable impatience and no further questions are asked. Then the Muller reference is, they concern questions by your lordship's assessor in order to justify the local authorities actions and to justify the rent increase. The one of Smith when my learned friend Mr Tip objects to evidence being led outside the period of the indictment he is summarily dismissed, evidencing impatience. The reference to Kunene is an example of the breaking off of further cross-examination. And in relation to IC.23, I am sorry my lord but without actually going to the record I (30)

cannot/.....



cannot give your lordship that but again under IC.23 if your lordship takes the one 6 500 to 6 508 is your lordship's examination of the witness in-chief for eight pages on songs, and the previous references, the 6 477 line 26 deals with various phrases which your lordship asked and not the state as to the meaning of mobilisation and your lordship equates it with incitement and leads him into saying that the following phrases are guerilla warfare and that revolution means bloody revolution etcetera. Again we submit that once we have an accomplice questions such as these coming from the court (10) may give him the impression that he should answer in a particular way. Then we do not know on what basis your lordship put the leading question that a cadre is one who has Marxist sympathies.

ASSESSOR (MR KRUGEL): Which point is that Mr Bizos?

MR BIZOS: It is the sixth, volume 131, 6 513, on top of the page, 6 513 at the top of page 8. Now I mentioned the question of Branders and your lordship told me that Branders came back a long time afterwards. The next one is the question of, if I could ask your lordship, the question of Prace, to fit that (20) in. But here was an expert. Your lordship thought that we should not have more than a day and a bit in order to cross-examine him. Without knowing what we wanted to investigate and how easy or difficult the investigation would be. We had to reargue the matter after your lordship made an order and from the nature of the cross-examination we would submit that your lordship would come to the conclusion that the time that we took, that we were eventually given, was in fact required. The reference is to go between, it is volume 133 if your lordship would put it under volume 131, 133, 6 578, 21 to 6 592, (30)



21. I want to submit that the reading of those passages support fully the submission that I made earlier to your lordship that your lordship's view, without actually knowing, because of the very nature of your lordship's function being completely different to ours, what time is required in order to do a particular job. There are, in relation to Atkinson Mr Jacobs says that he has no questions, then your lordship proceeds to ask him questions for five pages. Then, I do not want to deal with all the, accused no. 10. We have taken just a few in order to indicate the, your lordship's questioning. (10) The first one in volume 161, I do not know if your lordship has that schedule here. Then I will just give your lordship the references. Volume 161, page 7 904 line 28 to 7 905 line 24. Now your lordship spoke of counsel trying to close gaps before asking a direct question. At the top of page 7 905 your lordship asks Mr Vilakazi this:

"I understood your evidence previously to be that you did not in zone 3 organise a mass rally because you could not get a venue, you could not get a hall? -- That is so.

Could you not have held that mass rally on the (20) soccer field across the road from your house or anywhere else in the open? -- There were a number of problems there. Firstly that would be an open air gathering which was not permissible then.

Now on that point I thought that that would have been the position, that is why you bothered to get halls. Would a march not have been an open air gathering which was in contravention of the law? -- My understanding of an open air gathering, I understood it to be people coming together at one point in the open air, not (30)

moving/....



"moving from one point. That is my understanding."

The point that I want to make here, that that is how an astute cross-examiner would have put it, with the greatest respect to your lordship. Then in the same volume, 7 962 line 21 to 7 963 line 7 your lordship in the witness' evidence-in-chief examines the witness in order to get an admission that there would have been some sort of coercion of people not to go to work on the day of the stayaway. And a suggestion that the leading question that schoolchildren were intended to take part in the march. Then in volume 162, page 7 962 to 7 963 (10) the court's view that there is something unacceptable in people not taking part in government created apartheid structures as the witness described them. And in the same volume, 7 985 to 7 988 the same theme is taken up and what is in fact happening, I submit with respect, is a debate between your lordship and the witness to try and persuade the witness of the error of his ways in having this view of Black Local Authorities. And in volume 164 8 214 lines 4 to 25 your lordship's questions about genuine people's organisations and AZAPO fitting into it or not, then at 8 275 line 26 to 8 277 line 27 the witness (20) is examined by your lordship on the speech of Professor Mohammed and asked to express views on that speech. I may remind your lordship that in your lordship's own subsequent directives to counsel for the state it is quite wrong to put documents to a witness who has nothing to do with the particular document and does not know it. Then at 8 295 line 25 to 8 297 line 29, now in my respectful submission this is a passage which if counsel cross-examining a witness put it in this way your lordship would with the greatest respect have stopped it. This is the passage in which the witness was (30)

cross-/. ....



cross-examined on the meaning of accredited liberation movements. The witness had difficulty in answering on a yes or no basis as to whether certain organisations were accredited liberation movements or not. He appealed to your lordship to allow him to explain and your lordship would not give him that opportunity. He was forced to give a qualified answer and your lordship insisted on an absolute answer. And your lordship took the adjournment and gave him an opportunity the next day to explain himself. We had the situation that when he gave the explanation the next day the state felt aggrieved (10) by the explanation and had to ask him whether he had discussed the explanation with his fellow accused the previous night, something of course which could have been avoided if he had been given an opportunity to explain. Finally on page 8 479 line 14 to 8 480 line 14 your lordship's examination of him starts with the question:

"So according to you the UDF is just a talk shop, just a place where people have a cup of coffee and have a nice chat?"

I submit again that that sort of questioning in relation to (20) the UDF's perception of this is not calculated to put the witness at his ease. Now I want, having referred to these passages I want to come back to your lordship's statement to me that what is the complaint, accused no. 10 was acquitted. That is not the issue. The issue is that other accused who gave evidence subsequently heard your lordship examining accused no. 10. I have not got a ready reference but I remember that in a case where a similar complaint was made in relation to a judicial officer and then it was said that his co-accused did not go into the witness box to give evidence (30)

that/....



that the court took the manner in which the, his co-accused was examined into consideration in excusing his not going into the ...

COURT: You will probably have noticed that accused no. 10 was the first accused to give evidence and that many, if not most, of the problems the court had were put to accused no. 10. Which was done intentionally so that they could be cleared up later.

MR BIZOS: Yes my lord.

COURT: Yes. Now you complain about it. (10)

MR BIZOS: No what I am saying is...

COURT: I have your point.

MR BIZOS: That the manner in which it was done was not calculated to either put him at his ease, and after all he is an important witness in relation to the other accused and the mere fact that he has been acquitted does not mean that the matter is at an end for the purposes for which we are addressing your lordship at this stage. Then we turn to accused no. 8. Irony, with respect, puts a witness at a disadvantage and in volume 169, page 8 727 when Mr Nkopane said that one of (20) his relatives voted your lordship's remark "A progressive lady it seems" would not have put him on his ease. At the next reference your lordship would not allow a press report to be read which was seen by the witness at the time and which, in our submission, is entitled to do. At 8 725 your lordship's interruptions in relation to it must have put the witness off in our submission. A value judgment at 8 729 is made by your lordship to the witness when he says that when people have not got money they would rather have no increases and poorer facilities than increases which they cannot afford and (30) better/....



better facilities. Again this is an attempt, with respect, to justify the policy of the council. I am sorry that I cannot give your lordship the 8 744 reference. No it is, I am sorry I cannot deal with that. I will just take the next one. Yes I am sorry it has been explained to me as to why I have this difficulty. Certain others have been put in there.

I am going to ask your lordship to have regard to, to bear with me until I trace the ones that are the more, but I ask your lordship to bear with me in relation to Mr Nkopane's because they are not on my other schedule and I will just (10) have to go back to the record briefly. I will come back to accused no. 8 once the volume is before your lordship. Could I ask your lordship to turn to accused no. 9 on page 14. There is just a mix up of the schedules in relation to no. 8. The first one in relation to accused no. 9 at 185, volume 185, 9 594 line 10 to 9 597 line 5, the witness is examined by your lordship at length in order to make this a VCA march which the witness had a different perception of and we submit having regard to his lack of formal education not an unreasonable approach. Then accused no. 7, I am sorry accused no. 6, (20) the very reason of ERPA in view of the existence of a previous organisation is questioned by your lordship. Then accused no. 7, your lordship is, gives a very clear indication that the witness could not honestly have believed that he could be removed from Evaton against his will when so much evidence, when there was so much evidence of that sort of thing happening. Then in relation to accused no. 5, in volume 208 10 912, your lordship tries to elicit from the witness that he was still connected with COSAS when, not for the purposes of clarification we submit, his evidence was very clear that (30)

he/....



he was at work for some time and that he was not connected with COSAS. And the 10 984, the 10 983 reference to line 984 in relation to youth organisations, questions by the court as to whether supporters of the council would be allowed to participate. Then the 10 970, yes your lordship questioned him at length as to whether the rejecting of the councils was a local or a national grievance and implied in the question is what business were national matters to him or to anyone else that he was associated with, and the use by your lordship of the word "opstand" which was done, in our submission, more than (10) once where your lordship characterises shouting demands by youths or schoolchildren as "opstand". The primary meaning of which we debated with your lordship at the time and we submit that there is a clear indication that noisy protest is equated with "opstand". Then the 71, page 71 to 73 your lordship examines him at length on the question on which your lordship's finding is eventually based in relation to the call for the stayaway and the march. And the 80 to 82 reference questions putting extended meanings, in our submission, to the word sellout and similar words. The 02 to (20) 03 reference, your lordship questions him at length about co-operation amongst civics and what the purpose of it was. The 09 reference is a reminder to the witness by your lordship that the council did not get credit for the good that it did. The 11 116 reference your lordship examined the witness for over three pages in relation to the buses and gave a clear indication that the witness' answer that those who wanted to board buses would be free to do so. The 11 170 is again three pages of questioning in relation to the ages of the marchers and I submit that if your lordship looks at the questions (30)

it/....



C.1578

it is not for the purposes of clarification but a debate as to whether what he is saying can be correct or not. The 212 reference, to 218, this is approximately six pages of questioning by your lordship's assessor, in relation to the Tumahole situation and the foreseeability and your lordship may also note your lordship's view of my right to further re-examine the witness on this issue. The 301 reference, to 302, that, under accused no. 11, there are questions about the political nature of the youth organisations that the accused was concerned with. The 304 reference on top of page 16, a (10) debate over six pages on youth organisations and the meaning of democracy. The 404 reference about the joint committees in relation to the school and your lordship expressed the view in the judgment that it was a cheek for young people to suggest to their elders what should happen. We submit that that is a view which can be properly held, with respect. But your lordship heard witnesses as to how younger people feel about their right to express their ideas about their education and other matters. I am sorry my lord I was interrupted. Could your lordship give me an indication which I dealt with last (20) because I was interrupted.

COURT: 404.

MR BIZOS: In the 421 that the letter was really nothing more than a press statement is judgmental during the examination. The 510 disbelief expressed in relation to the genuineness of a document because it was in English and not in Sotho. The 25 dispute over illegal evictions and what that means. The 19 reference, judgmental questioning of accused no. 2 to the effect that the preconditions for a national convention are deliberately set to make it impossible. The 31 reference (30)

a/....



a concern about the criticism of the education system. The 58, again the question is not for the purposes of getting information but rather judgmental and calculated to put the witness off his guard, that language, figurative language must be qualified with repeatedly saying that we are for non-violence. Your lordship puts a document, under 59 puts a document to the witness not used by the state in relation to the effects of non-collaboration.

COURT: How do you mean not used by the state?

MR BIZOS: Well ...

(10)

COURT: Was it before the court at the time?

MR BIZOS: It was before the court.

COURT: Then I am entitled to put it. What is your complaint?

MR BIZOS: Taken by itself my lord, taken by itself ...

COURT: In fact there is a duty on me to put it. If I see something in the document which is at variance with what the witness says.

MR BIZOS: No but my lord, very often with respect your lordship will notice that it is not germane to what the cross-examiner is about and your lordship will, taking it, may (20) I say that I rely on the cases which say that any one of these matters taken by itself may not be enough but it is the cumulative effect of it all that really is to be considered. The 65 reference that both your lordship and the assessor examined the witness about talking to the government and characterise the call for a national convention as a sham. The 81 reference that the use of the word, again a judgment expressed that the use of the word "comrades" really means, is used because AZAPO wants a socialist republic. The 62 reference is again extensive questioning by your lordship in relation to (30)

commemorative/....



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