

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA

(TRANSVAALSE PROVINSIALE AFDELING)

I.15. VOL. 30 Pg. 1495-1447.

SAAKNOMMER: CC 482/85

DELMAS

1986-02-24

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.

ADV. P. FI

ADV. W. HA

30

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

(GETUIE IC.9)

VOLUME 30

COURT RESUMES ON 24 FEBRUARY 1986.

COURT: Mr Bizos before we start may I enquiry what happened to the attempt to agree upon non-contentious issues?

MR BIZOS: Yes, good progress is being made My Lord.

COURT: When can I have a progress report?

MR BIZOS: My Lord I have reason to believe that Mr Tip will be here tomorrow and he will be able to give Your Lordship a firsthand account. But it was discussed at our, what we call general meeting yesterday afternoon and good progress is being made in that regard. What I did see that it consists of a file of approximately 300 pages. So it is no mean task but also promising in relation to the cutting down of the various issues. (10)

COURT: Thank you. Could we just place on record which accused are here and, well which are not here.

MR BIZOS: Accused no. 4, accused no. 8 and accused no. 17 are still not here for the reasons set out previously and we ask Your Lordship to proceed with the trial on the basis that we will look after their interests and that they will not be prejudiced in any way by their absence. (20)

COURT: Yes, we will proceed on that basis.

IN CAMERA WITNESS NO. 9: d.s.s. (Through Interpreter).

FURTHER CROSS-EXAMINATION BY MR BIZOS: You recall that you told us that you were the principal of a school from 1973 to 1976? -- That is so.

You know I am going to put to you that even in regard to that you were not being correct. Did you succeed a Mr Moleko, as principal of the Tsoelopele Primary School in Sharpeville? -- That is so.

And if I were to put to you that you actually succeeded (30) him in 1977 will you be able to admit or deny that? -- Yes

I/.....

I will dispute that. Although of course I am going to make it clear to the Court that I made a mistake when I said I was a principal or I succeeded him from 1973. On checking my records on that I discovered this mistake and I had to verify when I was a principal and during which period I was an assistant teacher.

COURT: Yes. Now can you give us the period please? -- On my records, when I checked them, I was a teacher at Orlando West from 1973 to 1975, from 1975 to mid-1976 I was in Diepkloof.

MR BIZOS: That is also in the Johannesburg district? -- (10)
Yes.

COURT: As a teacher? -- As a teacher.

MR BIZOS: Yes? -- Then during 1976, that is mid-1976, I was promoted to a principal post where I succeeded Mr Moleko up to about 1977. Then from 1978 I rejoined the SABC.

Well let me put it to you this way that if I were to put to you that you were in fact out of the SABC for approximately six years teaching at various schools would that be correct?
-- Yes that is quite correct but even then during that period that I was not in their permanent employment I still had (20) to do with them as news reader and in fact on part time basis. I was working just like a person who is in full time with them.

I am going to put to you that you were actually principal between 1977 and 1979 at the Tsoelopele Primary School in Sharpeville? -- No I do not agree with that one because I have evidence to that.

Right, you say what, when did you finish being principal?
-- The end of the year 1977.

Yes, and I am going to put to you that you were asked to leave the school? -- Although I do not know how does that (30) become relevant to this particular case but what I can tell you/.....

you is that what I know is I resigned from that school.

Well in case one or other of these witnesses have to give evidence they will give His Lordship the reason, are you reluctant to speak about the circumstances under which you left?

COURT: Well how is that relevant Mr Bizos?

MR BIZOS: As Your Lordship pleases, I will leave it at that. Now tell me would you please, could you please tell us the last commentary, political commentary, that you wrote. When was it and what was it about? -- I have written a lot of (10) things and I am a person who writes almost every day and I am therefore not in a position to tell His Lordship because almost each and every hour I have something to write about as a writer. Now I am not in a position really to tell when last was that.

No, the last political comment that you made, that you wrote? It does not matter that it might have been corrected or modified, the last political comment that you wrote and what was it about? -- I will rather say I do not know because up to now I am still writing. Therefore I am not in a position (20) to tell the Court as to when the last one was.

COURT: Well if you wrote yesterday or you wrote the day before tell counsel about what you wrote yesterday or the day before? -- I remember I made a contribution about the formation of the COSATU, this is some few weeks back.

MR BIZOS: COSATU? -- COSATU.

What does COSATU stand for? -- That is an organisation pertaining to workers which was in Durban.

What does COSATU stand for as an acronym? -- Congress of South African Trade Unions, that is what COSATU stands for. (30)

That was the beginning of January? -- That very week which was, /.....

was, this was held I made a contribution.

Yes, and you made a contribution. Is that the last thing that you remember, is that the last thing that you wrote? --
Quite so yes.

Were you there? -- No I was not.

Because I am going to put to you that you are, your work at the SABC has been confined to a request programme in which people ask what record to be played, listen to me please, in your early days a request programme, what records were to be played and sending messages to their relatives. Do you admit (10) that that was the early nature of your employment on the SABC? -- When I was an announcer, yes.

Right. And more recently in the, on the editor's staff I am going to put to you that your activity is confined to regional news? -- That is not so.

When do you say COSATU, you commented on COSATU? -- It was a week during the beginning of this year, a certain week which I cannot remember exactly which one of the past weeks was that.

Do you know when precisely COSATU was formed? -- What (20) I know when this was going to be launched in Natal we had all the facts.

Do you know when it was formed? -- If I could refer then I will be able to tell you.

Do you know which constituent bodies formed it? -- What I know is there are quite a number of organisations in COSATU.

Yes, do you know which were the constituent federations that formed this one federation or which were the constituent bodies? -- Only after referring I will be able to tell you.

I see. Tell me, are you sure that Mr Mohage is your (30) neighbour? -- Quite so.

Does/.....

Does he not live in Zone 7? -- At the present moment he lives in Zone 14.

Alone? Is his family not in Zone 7, is not his home in Zone 7? -- Mohage and his wife and children, including his grandchildren, they are in Zone 14.

Would it be correct to say that you are, you and Mr Mohage, more especially during August 1984 were what may be described as drinking pals? -- Do not say in 1984, just rather say all the years.

Is the answer yes for all the years? That you are drinking pals and you go about during the weekend drinking together and socialising together?

COURT: Well we have already had it on record a number of times that he is very great friends with Mr Mohage. I do not think you need take it further.

MR BIZOS: As Your Lordship pleases. Were you in the company of Mr Koaho, the previous witness in this case, on the night of 18 August 1984? -- Not unless you give me the details of what was happening at the time when I was with him, I may remember that I was with him because I do not know what was (20) happening.

Well the night before you attended the meeting of 19 August at St Cyprian's Church? -- I said that in my evidence already that I was with him at one of my friends place who is an inspector of schools.

Not at any public place, public drinking place or semi-public drinking place? -- We were in the house of this gentleman I have already referred to.

You did not go out from this house? -- Well if we have left the house I cannot remember but what I remember is we (30) were in that house.

Yes./.....

Yes. So are you not in a position to admit or deny that you were what is commonly called a shebeen that night? -- That I was in a shebeen I do not know who can recall that I was in a shebeen that night but what I am saying is I do go to shebeens sometimes but this night in question, this is the night referred to by the defence, I was not at a shebeen.

There are one or two aspects that I want to clarify with you finally. You told us that you did not take the woman's incitement to violence seriously? -- Those are my words.

Did that apply to the incitement to violence uttered by (10) Mr Manthata, accused no. 16? -- I gave evidence about his words and the speech he gave, as to what was he saying in his speech at the time. I did not tell the Court what my feelings were about him.

COURT: Yes. Now counsel is asking you what were you feelings about him? -- Well I would say his speech was the kind of a speech one could describe as inflammatory.

MR BIZOS: Yes, the question was, everybody would agree with you that if it was made that it was inflammatory but the question is did you take it seriously? -- Yes I took it to (20) be serious.

Well you recall that yesterday, well the previous hearing day you told us that the reason why you did not act in the manner in which I suggested you should act having heard this woman, you gave the reason that you did not take it seriously. Would you like to explain to His Lordship why you did not take the steps that I mentioned to you if you took no. 16's speech seriously?

COURT: The steps being? That he should report it?

MR BIZOS: Should report it, raised a hue and cry, takes (30) steps, and the other matters that I put to him in relation to

16? -- I have already told this Court that my duty there was about the news that I had gone there for. It was not for me to take steps whatsoever, the reason being that there were policemen in there and it was their duty to know what to do.

If you took it seriously one would have expected, I would suggest, that you would have raised with Mr Koaho, the security police sergeant, what are you going to do about this for the safety of the councillors and their property in our area? -- My duty is not to interfere with any other person's duties.

Would you please tell us whether you understood the (10) incitement of violence by accused no. 16 as conditional or unconditional upon the councillors being approached to resign?

COURT: Do you understand this question? -- Yes I understand.

Yes, answer it. -- According to me I do not think I am in a position to tell this Court what my analysis are about that, whether he had any conditions or not. The best for me to say in answer to that question is to say I do not know.

MR BIZOS: Well, but does that mean that you do not know what his precise words were? -- What I am saying is I do not know whether he had any conditions or not in that, what he was (20) saying.

Well let me put it in another way for the purpose of some clarity. Did either accused no. 16 or anyone else that followed him say that we have a problem, we must approach the councillors and call them to resign as part of the solution of the problem? -- Because of what was said by the audience there, shouting "Let them resign, let them resign" I will say there was such a talk that they must resign.

By accused no. 16? -- I did not hear him uttering those words but in each and every speech or talk which was there (30) it was being mentioned that they must resign.

Were/.....

Were the calls for resignations of the councillors by the various speakers made before or after accused no. 16 spoke?
-- It was after he had made a speech.

Yes. So that if anyone were to suggest that he made an outright call for their killing and the destroying of their property and that no opportunity should be given to them to resign would you say that that is incorrect? -- I do not know that because I was not thinking for him.

Yes. Would you agree that the calls for resignation would have been inconsistent in the atmosphere that you have found (10) yourself in if accused no. 16 had called for the outright killing and the outright destruction of their property? -- On that I quite agree with you but I do not know.

Yes. Finally if a thousand people sing Nkosi Sikelele e Africa in a spirited way in this church would it be audible at the police station where you were? -- I have already said we were quite far from there. It was not within the hearing. One could not hear.

Do you agree that if your description of this meeting is correct you would not have expected people in a calm fashion (20) to come out of the church and in small groups go out about their business? -- The question is not clear.

If your description of this meeting is correct ...

COURT: Which part of the meeting? Are you referring particularly to the speech of no. 16 or what happened later?

MR BIZOS: No I am taking the meeting as a whole My Lord.

COURT: The whole meeting, yes.

MR BIZOS: The whole meeting. That if your description of the meeting as a whole is correct, that people were taken up, they were excited, would you have expected them to come out (30) quietly and in small groups disperse about their business

without/.....

without any difficulty? -- I expected that to happen because people are scared of anything which can happen. Then they would do that.

I am sorry I do not understand your answer. Could you explain it please? -- What I am saying is it is possible that people could have left in the fashion put to me by the defence, the reason being that they may have been scared of doing what they were doing inside that building where they were sort of shielded by the building itself and outside they are scared of being seen doing that, that they may be arrested for what (10) they are doing outside. So therefore I expected it like that.

Was not the known presence of the police in the meeting sufficient restraining influence for them to behave in a similar manner? -- I am not in a position to tell the Court what influence it had, that is the presence of the police in that meeting.

Well this question of whether the meeting, whether the call to kill and destroy property was conditional or not I am going to put to you that in your evidence-in-chief on page 1284-1285 you seem to suggest that accused no. 16 was making (20) a final call for their death and destruction of their property insofar as it may be interpreted that way would you say that it was incorrect?

COURT: Now just a moment. We are far off from what you are putting to the witness. Could you read to him exactly what he said and then you can ask him to comment on it.

MR BIZOS: Yes, as Your Lordship pleases. It is 1284 My Lord.

COURT: Which portion are you reading?

MR BIZOS: The bottom of the page My Lord, "Gaan voort."

"Hy hou toe verder aan met sy toespraak deur te (30)
sê die manier waarop die mense hulle krag moet gebruik
weet/.....

weet hulle hoe. Hy het verder gesê

COURT: Just a moment. Have this interpreted please.

MR BIZOS: "Hy het verder gesê dit is lank dat hulle met die raadslede of die councillors praat en dat hulle die raadslede die werk moet los en hulle weier."

COURT: Nee nie "en" nie. "Dit is lank dat hulle met die raadslede of die councillors praat dat hulle, die raadslede, die werk moet los en hulle weier."

MR BIZOS: "Hy het toe verder gesê as hulle so weier om die werk te los van die raadslede sal hulle verplig word (10) om dit te los."

COURT: "Geplig moet word". "Geplig moet word om dit te los."

MR BIZOS: "Met dit toe hy dit gesê het het hy sy gevoel uitgedruk want later hy het toe gesê dat as hierdie mense weier om die werk te los, dit wil sê die werk van die raadslede, moet hulle gedood word. Hulle moet met klippe bestook word en aan die brand gestee word."

Now do you say that those words are consistent with any, well with lack of knowledge on your part as to whether it was conditional or unconditional? -- I do not have any comment (20) of my own as a feeling on that.

Yes. Now I am going to put to you finally that accused no. 16's speech was a speech in which he was highly critical of the authorities but that

COURT: Is that now the local authorities or the governmental authorities higher up?

MR BIZOS: I would say both My Lord, the speech as a whole. But that he finished up, he finished up with a message of hope for people.

COURT: Is it put that he said to the people "I have a (30) message of hope for you"?

MR BIZOS: /.....

MR BIZOS: No My Lord I am summarising.

COURT: Well then I do not think you should put that.

MR BIZOS: No, with respect My Lord I am entitled to put, if the witness says

COURT: No you are interpreting what he said, that it is a message of hope but the previous time you put it it did not seem to me as a very hopeful message. So will you just tell the witness what he said.

MR BIZOS: Yes, well My Lord I am trying to summarise what the witness has summarised. The witness was allowed to express (10) an opinion what the import of the speech is.

COURT: Correct.

MR BIZOS: I am entitled, with respect, to give accused no. 16's, without putting the precise words which I have already done to the previous witness and to a very large extent to this witness, I am entitled, with respect, to put the overall picture of no. 16's speech by way of contrast of the witness' interpretation.

COURT: You mean the message of hope is not your interpretation, the message of hope is no. 16's interpretation? (20)

MR BIZOS: Yes My Lord.

COURT: Yes go ahead.

MR BIZOS: That he gave, that his speech as a whole was a message of hope for people who should try and rely on themselves, their fellow men, other organisations, in order to alleviate the plight that they were living under? And that he did not incite anybody to violence? What do you say to that? -- I stand by my evidence in toto.

And that although your interpretation of the occasional Amandla or Matla and Awetu may have given you the impression (30) of a riotous or semi-riotous meeting that was not so. -- No

comment./.....

comment.

No comment. Furthermore that I am going to put to you that Sharpeville is particularly a closely knit community. Do you agree with that? -- I quite agree with you.

And with considerable pride in relation to its identity as a united community? -- Because of my having worked with them I do not agree with you with everything you are putting on that.

Yes, well what part of it do you disagree with? -- That they are united, they are one community.

Yes, you say they are divided? -- It is not what I am (10) saying.

What are you saying? -- What I am saying is I do not agree with you when you put it in this fashion of saying they are one person, that is they are united as a community.

I will leave it at that. Would you agree that the age group of Sharpeville is substantially higher than that on the average than Sebokeng and the other townships in the Vaal Triangle? -- I do not know, I have never checked their statistics.

Well what was your impression of the meeting? Would (20) you not agree that most of these people were middle-aged and past middle-aged people? -- People of all the ages were present there.

Would you disagree that they were predominantly middle-aged and elderly people? -- I did not count but I differ with you.

What do you differ on? -- When you say the majority in that meeting was from the middle-age upwards.

Would you say that most of the people were young people? -- I did not say so. (30)

In relation to accused no. 1 I have put to you in detail what/.....

what he said and I am going to put to you that insofar as your version of his speech is different, his version is correct?

-- Well, those are your own feelings.

RE-EXAMINATION BY MR HANEKOM : No questions.

NO FURTHER QUESTIONS.

MNR. JACOBS : U Edele, voordat ek die volgende getuie herroep, dit is getuie Branders, wil ek by die Hof aansoek doen in terme van artikel 86 van die Strafkode vir 'n wysiging van die klagstaat. Ek mag die Hof inlig dat ek aan My Geleerde Vriend, mnr. Bizos, op 12 Februarie meegedeel het - dit is 12 Febru-(10) arie 1986 - dat ek aansoek gaan doen vir hierdie wysiging. Die wysiging is 'n redelike omvattende een.

HOF : Is dit getik?

MNR. JACOBS : Dit is getik.

HOF : By watter deel van die akte kom dit?

MNR. JACOBS : Dit gaan handel oor daad nr. 66 en dan meer in die besonder bladsy 77 van die besonderhede. Soos ek sê, dit is op skrif gestel, dit is getik en ek sal dit aan die Hof uitlees. Die wysigings wat ek aanvra is dan op bladsy 77 van die besonderhede. (20)

HOF : U moet net 'n bietjie wag. U miskien daar deurgaans, maar ek wil graag my nadere besonderhede daarmee saam lees en my nadere besonderhede is ongelukkig in my kantoor. Miskien kan u my net in die algemeen toespreek en sê waarom dit gaan voordat ons by die detail uitkom.

MNR. JACOBS : Dit gaan in die besonderheid - u sal sien in daad nr. 66 gaan dit oor die aktiwiteite en organisasie van UDF en die beskuldigdes op ander gebiede oor die land as in die Vaal... (Hof kom tussenbei)

HOF : Dit is nou bladsy 267. (30)

MNR. JACOBS : Bladsy 267 van die akte van beskuldiging.

Dit gaan hier dan oor die kampanje omtrent die Swart plaaslike besture en die uitvoering daarvan deur UDF en die beskuldigdes en die samesweerders oor die hele Republiek van Suid-Afrika. In hierdie verband het ons besonderhede verskaf wat ons dan gegee het op bladsy, wat veral betrekking het op bladsy 77 van die besonderhede.

HOF : Met watter deel van hierdie paragraaf 66 handel daardie besonderhede op bladsy 77? Kyk, die eerste deel is 'n propagandaveldtog, bladsy 268. Handel u met die propagandaveldtog of met iets anders? Op bladsy 273 het u iets anders. Dit(10) is die neerlegging van 'n beginsel. Bladsy 273(3) dat 'n kampanje gevoer moet word. Ek wil net 'n hele prentjie kry voordat ek 'n toespraak kry oor die toelaatbaarheid daarvan.

MNR. JACOBS : Op bladsy 40 van die versoek om besonderhede is versoek 27.6.5. op bladsy 40 - is daar gevra vir besonderhede hoe dat daarso geweld plaasgevind het in elkeen van die gebiede. Dan is daar volle besonderhede gevra waarop die Staat dan in 27.6.5. besonderhede verskaf het wat begin op bladsy 76. Dan gaan dit daar aan op die besonderhede ...

(Mr Bizos intervenes)

(20)

MR BIZOS : I am sorry to interrupt at this stage. With the greatest respect I want to apprise Your Lordship of something said by My Learned Friend, Mr Jacobs. We only got this document this morning, now. It is true that Mr Jacobs told me about a proposed amendment some time during this month, but it was only about one amendment and that is that he was going to ask for an amendment before I cross-examined Mr Branders and that the amendment would be to the effect that accused no. 20, Mr Lekota, threw a stone or bent in order to pick up a stone to throw it. I am ready to deal with that amend- (30) ment. This comes as complete news to us.

COURT : I have not read this.

MR BIZOS : It deals with very much more and I want to take Your Lordship into our confidence. We have divided our labour as between My Learned Leader, Mr Chaskalson and myself. I was ready to oppose the amendment in relation to the evidence of Mr Branders - the matter was argued and a judgment was given. We will not be ready to be of any assistance whatsoever to Your Lordship, because we have not had the opportunity because of the absence of notice to go into this to formulate an attitude or to be of any assistance to Your Lordship in argument. (10) I am, to say the least, surprised that Your Lordship is informed that we were told about these amendemtss. This is the first time, as I glanced through it, that we had any notice whatsoever that there would be any attempt to amend the indictment or further particulars in any respect other than Mr Lekota bending in order to pick up stones. We will not be able to be of any assistance to Your Lordship in the absence of notice. My Learned Friend must decide whether we are entitled to some reasonable notice in relation to this sort of amendment which may change the nature of the case and I wanted, (20) before he takes up any more of Your Lordship's time, to indicate that we will not be ready to deal with it.

HOF : Mnr. Jacobs, waarom het u nie hierdie skriftelike wysiging 'n bietjie vroeër gegee vir mnr. Bizos, in elk geval voor die naweek sodat hy daaroor kon dink nie?

MNR. JACOBS : Ons kon dit eers klaargekry het Vrydagmiddag laat en die aspekte wat hier na verwys word wat die wysiging is, die enigste een wat vandag ter sprake gaan kom is die een van mnr. Branders. Die ander se getuienis gaan nie nou aangebied word ... (Hof kom tussenbei) (30)

HOF : Maar die probleem is dat as u mnr. Branders nou roep

voordat hy getuienis gee sal ek 'n beslissing moet gee oor die toelaatbaarheid van die wysiging. Dit is beter om die wysiging as geheel af te handel as om net een sinnetjie uit die wysiging te haal en dit te wysig en dan later met die res van die wysiging te handel. Ons kan dit nie so op stukkie doen nie. Ek weet nie wat die wysiging behels nie. Miskien moet u my net vertel waarom dit gaan, sodat ek 'n beeld kan vorm.

MNR. JACOBS : Die wysiging gaan oor hierdie daad 66 en dan die plekke wat genoem word waar ons sê op bladsy 77 waar (10) ons die antwoord gee op 27.6.5 "Op die volgende plekke beweer die Staat het onder andere geweldpleging, oproer, intimidasie uitbreek na organisering en mobilisering deur die organisasies hieronder aangedui." Dan het ons die lys van plekke gegee. Die wysigings wat hier aangebring word is ten opsigte van hierdie plekke en onder andere is een van hierdie plekke Seeisoville, waarom mnr. Branders getuienis gee.

HOF : Die plekke, is dit nou hier in die lys Tembisa, Ratanda ensovoorts?

MNR. JACOBS : Dit is reg. (20)

HOF : Bly die plekke dieselfde of kom daar by of word daar deurgehaal?

MNR. JACOBS : Die plekke bly dieselfde. Al wat daar kom is, daar word net meer besonderhede gegee waar van die beskuldigdes dan ook persoonlik betrokke was.

HOF : Die plekke bly dieselfde, net ten aansien van elke plek kom daar meer besonderhede?

MNR. JACOBS : Meer besonderhede en daar is 'n paar plekke waar ons vasgestel het dat die datums nie heeltemal reg was nie. Ek gaan ook vra vir 'n wysiging van die datums. (30)

HOF : Kan u net vir my sê, wat stel u voor moet gewysig word

dat ek weet waarom dit gaan?

MNR. JACOBS : Dit is die lys, as ek dit net kan uitlees.

HOF : Dit is dan by Ratanda?

MNR. JACOBS : Bladsy 77 van die nadere besonderhede paragraaf 2 - ek noem hom paragraaf 2 omdat hy daar 'n groot 2 gemerk is "Ratanda." Daar word die datum gewysig van 22/3/84 tot 30/4/84.

HCF : Met ander woorde, daar word 'n datum ingesit? Die woord "tot" word bygevoeg?

MNR. JACOBS : Dit is reg.

HOF : Maar dan kan dit mos nie werk nie, want daar staan (10) 22 Maart 1985. Dit moet '84 wees?

MNR. JACOBS : '84 word gewysig na '85 toe.

HOF : Andersom.

MNR. JACOBS : Andersom.

HOF : Dit is in die maand volgende op 22 Maart 1984 ongeveer?

MNR. JACOBS : Ongeveer 22 Maart - daardie 1985 was 'n tikfout, dit moet '84 wees tot 30/4/84.

HOF : Goed, ek het daardie een. Wat is die volgende een?

MNR. JACOBS : Die volgende een is op bladsy 77 weer "Tokoza". Dit is paragraaf 3 daar. Daar word net besonderhede byge- (20) voeg "En 'n polisiebeampte is vermoor."

HCF : Ek het dit. Die volgende een?

MNR. JACOBS : Bladsy 77 paragraaf 5 dit is "Tsakane". Hier word daar ingevoeg, een van die organisasies wat nie voorkom in hierdie een nie, na Silverton "COSAS" by en verder word ... (Hof kom tussenbei)

HOF : "Sedert Januarie het die ad hoc komitee van Silverton" moet daar "En COSAS" bykom?

MNR. JACOBS : "En COSAS" bykom.

HOF : "En CCSAS" of net "COSAS"?

MNR. JACOBS : Ja, "COSAS", eintlik "En COSAS." "Die twee

organisasies wat georganiseer het is die ad hoc komitee van Silverton en COSAS".

HOF : Maar dan moet u op u kennisgewing "En COSAS" sit, nie net "COSAS" nie.

MNR. JACOBS : Dan die datum moet verander word na die eerste datum Januarie 1985 word vervang met Oktober 1984 tot Julie 1985. Dan op bladsy 78. Daar is paragraaf A(8) "Kwatema" en net daar by te voeg "na polisie se wonings gerig en het oproer, geweldpleging en brandstigting plaasgevind." Dan by bladsy 78 paragraaf 9 van die besonderhede, die naam "Soweto(10) Vivic Organisation" is eintlik "Soweto Civic Association". Sowel as "SOYCO" en dan net daar by te voeg na "SOYCO, COSAS en AZASO." Dan bladsy 78 Mankweng, paragraaf 11. Daardie "Februarie 1985" net te vervang met "Einde Julie 1985." Dan bladsy 79 paragraaf 16, daar is "Huhudi" en voeg by "Op 1/7/84 het beskuldigde M.P.G. Lekota 'n massavergadering van HUYO toegesprek en die mense opgesweep tot geweld." Die agtste een is bladsy 79 van die besonderhede by paragraaf 17 "Thumahole". Die datum word daarso "Sedert Julie 1984" verander na "Sedert Januarie 1984" en voeg by aan die einde daarvan "En het (20) beskuldigde M.P.G. Lekota (1) op of omtrent Julie 1984 tot September 1984 te Thumahole aan lede van die Thumahole Studentds Organisation en/of Thumahole Yough Congress en/of lede van die publiek opleiding verskaf in die maak en gebruik van petrolbomme. (2) Die gemelde persone sou onderrig verskaf in die maak en gebruik van plakate en baniere vir die gebruik tydens betogings en oproer. (3) Gedurende Januarie 1985 was 'n massavergadering belê deur Thumahole Students Organisation en het beskuldigde M.P.G. Lekota (a) as gasspreker opgetree en voorgestel dat die organisasie se naam verander word na Thuma- (30) hole Youth Congress; (b) die mense op die vergadering

aangemoedig om die huurkwessie op te neem en gedurende 1985 raadslede te beveg en om raadslede se besittings te vernietig."

Dan "Gedurende Junie 1984 het Biskop D. Tutu, beskuldigde M.P.G. Lekota en beskuldigde S.P. Molefe 'n raadslid van Thumahole (1) te woord gestaan te Khotso House, Johannesburg en hom meegedeel dat as hy bereid is om as raadslid te bedank, dan sal sy eiendom nie verder beskadig word nie; (2) nadat die betrokke raadslid wel bedank het, het hy weer Biskop D. Tutu geskakel waarna hy gereël het dat drie persmanne na die raadslid moes gaan vir persverklarings omtrent die raads- (10) lid se bedanking. Op 10/7/84 is beskuldigde S.P. Molefe op die Parys/Barrage-pad voorgekeer ..." (Hof kom tussenbei)

HOF : Moet dit nou kom onder Thumahole?

MNR. JACOBS : Dit is reg. "... is beskuldigde S.P. Molefe op die Parys/Barrage-pad voorgekeer en het hy plus-minus tweehonderd pamflette, getiteld "New Deal - No Deal" in sy besit gehad. Op 15 /7/84 is beskuldigde M.P.G. Lekota en 'n ander persoon by Thumahole voorgekeer en in besit gevind van etlike dokumente waaronder "UDF Resolutions, First National Conference, UDF Program of Action, Minutes of General (20) Council Meeting, 17/9/83 Preliminary Report on the Effect of the Crisis in Labour, speech delivered by Brett Murdoll. 29/9/83 UCT. Statement on the Detention of Publicity Secretary Terror Lekota. Letter of UDF to USA Ambassador. New Deal must be rejected. UDF Fact sheet on Ciskei. Impression of - Repression of SAWU in the Ciskei. Joint statement of UDF and OVGWU" en ander organisasies. Dit is dan alles wat onder daardie een ingebring word. Dan die negende wysiging is paragraaf 18 "Seeisoville." Voeg in aan die einde daarvan "En het beskuldigde M.P.G. Lekota op 21/2/85 aktief deel- (30) geneem in die betrokke woonbuurt aan 'n klipgooiery deur Swart-

massas na 'n begrafnis en ook algemene oproer in die gebied.

HOF : Dit is van hierdie wysiging wat u kennis gegee het mondeling?

MNR. JACOBS : Dit is reg.

HCF : Maar van geeneen van die ander wysigings nie?

MNR. JACOBS : Dit het ek nie gegee nie.

HOF : Gaan met my deur nou wat die res van die goed is, asseblief?

MNR. JACOBS : Dan wil ek gaan na bladsy 80 van die nadere besonderhede paragraaf 22. Daar staan "Evander". Die (10) werklike naam moet eintlik daar vervang word. Dit moet wees "Leandra".

HOF : Die hele opskrif "Evander" is "Leandra"?

MNR. JACOBS : Dit is reg. Dan die wysiging van "Leandra Youth Organisation" na "Leandra Action Committee. Eintlik moet daardie opskrif van "Evander" is "Leslie Swartwoongebied." Dit is eintlik waar Leandra opereer. As ek vra dat "Evander" vervang word met "Leslie Swartwoongebied."

HOF : Die opskrif moet wees "Leslie Swartwoongebied."

MNR. JACOBS : En "Leandra Action Committee" is die organi-(20)sasie wat daar opgetree het. Die woorde "Leandra Youth Organisation" moet uitgehaal word en vervang word met "Leandra Action Committee." Dan bladsy 80 verder, dit is paragraaf 28 "Cookhouse." Al wat daar bygevoeg word is "en is 'n onderwyser vermoor." Dan gaan dit na bladsy 81 toe daar by "Welkom" paragraaf 31. Aan die einde daarvan moet bygevoeg word "11 Augustus 1984 het beskuldigde M.P.G. Lekota te Thabong, Welkom, 'n toespraak gehou by die begrafnis van 'n persoon wat in die onluste aldaar gedood is en het hy 'n oproep gedoen op die begrafnisgangers om te veg totdat uiteindelijke vry- (30)heid en vrede verkry is. Hy het 'n beroep gedoen op die vroue

om deel te neem aan die stryd wat volgens hom reeds in 1912 begin het." Dan die ander wysigings is op bladsy 19 van die besonderhede. Dit is net om die organisasies wat saamgesweer het reg te kry. Onder daardie vroue organisasies is daar dan drie. Na paragraaf 2 wil ek invoeg 'n paragraaf 3.

HOF : U sê nie in u kennisgewing waar u hom wil bysit nie. Dit moet 'n nuwe paragraaf wees by subparagraaf (4) van paragraaf B - voeg by subparagraaf (4) 'n paragraaf (iii). Wat voeg u daarby?

MNR. JACOBS : Die organisasie wat daar ingevoeg moet word (10) is UWO ... (Hof kom tussenbei)

HOF : Wat is dit wat ons van praat? Is dit nou ook 'n vroue organisasie?

MNR. JACOBS : Dit is reg. Subparagraaf (iii) daar 'n vroue organisasie wat ingevoeg word "UWO, wat staan vir United Women's Organisation, wie se lede van die bestuur tans aan die Staat onbekend is." Onder hierdie selfde hoof gaan ons na paragraaf 7 "Ander organisasies", op bladsy 24 - dit loop tot by bladsy 27.

HOF : Na UDF of Pracasum? (20)

MNR. JACOBS : Ja, ons het Pracasum ook al gewysig en Beyers Naude daar ingevoeg.

HOF : U het Pracasum ingesit en u het ook Dr. Beyers Naude ingesit. Nou wil u daar nog iets byvoeg?

MNR. JACOBS : Ek wil daar 'n paragraaf 8 inbring om hierdie paragraaf af te eindig na die 7. Die opskrif sal dan lees "8. Organisasies met UDF geaffilieer ..." (Hof kom tussenbei)

HOF : U moet die opskrifte regkry. Bladsy 27 van die nadere besonderhede, voeg in paragraaf 8 na - eintlik moet u sê voor 1.4.1.? (30)

MNR. JACOBS : Dit is reg. "Organisasies wat met UDF geaffilieer

het of wat aktiewe ondersteuning aan UDF is en waarvan die name van die bestuur tans aan die Staat onbekend is." Dan gee ek die lys van die name van die organisasie en dit is "Tembisa Civic Association." Dit gaan reg deur tot "Adelaide Youth Congress, ADYCO." Dit is net die organisasies wat terugverwys na hierdie paragrawe wat ons nou net behandel het, wat die wysigings in kom. Dit is die totaliteit van die wysiging.

HCF : Dit is vir my baie duidelik dat mnr. Bizos 'n geleentheid moet kry om hierop voor te berei. U sê dit raak ons vandag(10) net wat betref die getuienis van mnr. Branders?

MNR. JACOBS : Dit is al.

HOF : Maar mnr. Branders het ek verstaan sit al 'n week en 'n half hier en wag by die hof.

MNR. JACOBS : Dit is reg.

HOF : Het u 'n ander getuie om mee aan te gaan?

MNR. JACOBS : Ons kan net uitvind of die ander getuies hienatoe gekom het.

HOF : Ek dink u moet uitvind, want om mnr. Branders nou te lei, sal beteken dat ek 'n beslissing moet vel behalwe as (20) u vra vir net 'n wysiging in daardie opsig. Dan kry ons die hele ding stuksgewys.

MNR. JACOBS : Kan ek die Hof miskien op hierdie stadium dan net inlig hoekom die wysigings nou gedoen is, dan kan mnr. Bizos in sy voorbereiding daarop ... (Hof kom tussenbei)

HOF : Ja, asseblief.

MNR. JACOBS : As ons kyk na die besonderhede op paragraaf 66 van die akte van beskuldiging, in daardie vorige paragrawe word gevra en is die direkte verbondenheid van die beskuldigdes waar hulle opgetree het genoem, maar in paragraaf 66 was (30) dit nie genoem nie en daar was ook geen bevel dat dit genoem

moet word nie. Omdat dit op daardie stadium toe die besonderhede verskaf is nie genoem was waar die beskuldigdes direk betrokke was nie en na die Hof se uitspraak Branders sy getuie- nis gelewer het, het die Staat dit goed gevind om hierdie geval waar miskien getuie- nis aangebied sou word, om dit nou almal uit te haal, uit te lig en die besonderhede vir die verdediging te gee. As die Hof kyk na die geheel van die vrae op 66 en die antwoorde daar op 66 het die Staat hom nooit verbind direk om te sê dat die beskuldigdes in hierdie opsig direk of enige van die beskuldigdes direk opgetree op enige van die plekke(10) nie en my submissie was dat die Staat sou onder daardie omstandighede die getuie- nis kon gelei het van hulle optrede daar ten opsigte van daad 66. Nou het die Staat daardie besonderhede ook vir die verdediging gegee, waar die Staat oor getuie- nis beskik waar die mense direk opgetree het.

HOF : Wat is nou die praktiese oplossing vir die huidige probleem en dit is ten aansien van mnr. Branders? Moet ons die aansoek net op daardie eng basis behandel en afhandel of moet ons wag vir die hele ding gelyk? Mnr. Bizos is ten aansien van daardie een paragraaf my wel toe te spreek, (20) lyk dit.

MNR. JACOBS : Kan ek die Hof vra dan kan mnr. Bizos miskien op die hele aangeleentheid praat. Laat ek net uitvind wat is aan die gang of die ander getuies opgedaag het en dan kan h mens miskien h ander getuie insit.

HOF : Ja, goed.

HOF VERDAAG.

HOF HERVAT.

MNR. JACOBS : Die kwessie van die wysiging van die klagstaat, ek vra dat dit oorstaan na môre toe. Ons het nou h getuie gereed wat ons dan sal lei. (30)

DELMAS TREASON TRIAL 1985-1989

PUBLISHER:

Publisher:- Historical Papers, The University of the Witwatersrand

Location:- Johannesburg

©2009

LEGAL NOTICES:

Copyright Notice: All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

Disclaimer and Terms of Use: Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of paper documents and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

DOCUMENT DETAILS:

Document ID:- AK2117-I1-5-30

Document Title:- Vol 30 p 1425-1447. Witness: IC9