

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA

(TRANSVAALSE PROVINSIALE AFDELING)

I.9 Vol. 62 Pg. 3223 - 3287.

SAAKNOMMER: CC 482/85

DELMAS

1986-04-14

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

62

NAMENS DIE VERDEDIGING:

ADV. A. CHASKALSON

ADV. G. BIZOS

ADV. K. TIP

ADV. Z.M. YACOOB

ADV. G.J. MARCUS

TOLK:

MNR. B.S.N. SKOSANA

KLAGTE:

(SIEN AKTE VAN BESKULDIGING)

PLEIT:

AL DIE BESKULDIGDES: ONSKULDIG

KONTRAKTEURS:

LUBBE OPNAMES

VOLUME 62

(Bladsye 3223 - 3287.)

COURT RESUMES ON 14 APRIL 1986.

MR BIZOS: My Lord Mr Molefe, accused no. 19, is temporarily absent for health reasons.

COURT: What is the reason for his absence?

MR BIZOS: A further examination by a specialist as a result of the intervention of the District Surgeon.

COURT: Yes we will continue in his absence.

ESAU CHAKE MAHLATSI: d.s.s. (Through Interpreter)

FURTHER CROSS-EXAMINATION BY MR BIZOS: Mr Mahlatsi we were dealing with EXHIBIT AAQ(26). (10)

COURT: That is the motion of no confidence.

MR BIZOS: That is so My Lord. I want to read to you the last paragraph of page 560 which reads:

"The late Honourable K.J. Dlamini once owed the very Town Council of Lekoa a sum of more than R800 for this site ..."

COURT: For "that site".

MR BIZOS: "For that site, whilst poor residents are being dragged to Court under such circumstances."

Now do you know whether the late Mr Dlamini was in fact (20) in arrear in the sum of R800 without any steps being taken against him? -- No I did not know that.

Well are you in a position to deny it? -- No I am not.

Did you not consider it a relevant matter for your Council to enquire into, whether the Deputy Mayor owed the Council R800 whilst other people who were less than one month in arrear were ejected from their homes? -- We did not investigate that.

Did you not consider it a proper matter for your Council? -- Matters pertaining to arrears are being done by the (30) officials.

But/.....

But is it not a question of fundamental policy as to whether the Deputy Mayor is going to be shown consideration whilst residents are not? -- We never thought of that.

You never thought of it. Then if we could turn to page 561, "Allotted the following business sites, no. 5956 to the late Caesar Motjeane and 5958 to a certain Mr S.M. Masisi, were based on false bank certificates whilst other applicants were subjected to heavy initial capital to start businesses." Now did you know about that? -- No I did not.

Did you not consider that a matter pertaining to your (10) Council? -- I do not know whether the question is in fact pertaining to the Town Council or the Council. I have already explained to the Court that it had nothing to do with the Council.

Because of the misspelling? -- Besides the spelling the allocations here were made by the Community Council and not the Town Council.

But do you not think that it is relevant, if in fact the same persons were involved, that their own integrity, their personal integrity, was an issue? This was an attack on (20) you personal integrity, if you behaved with a lack of integrity alleged in this motion, whether you were in the Community Council or the Town Council did you not consider this a wonderful opportunity to clear your name, that these allegations are false? -- These reports were in the newspapers and I tried to reply to them but they were not corrected.

Yes but why did you not allow a debate in your Council to say "Look these facts are wrong" and it must be a matter of record, there must be documents and show the people the documents in your Council and say "Look these people are (30) making false allegations against me"? -- Because of the fact that/.....

that I felt this does not have any bearing on the Council I felt there was no point in us wasting time discussing these things which had in fact nothing to do with the Council.

Then paragraph 4 on the same page, "In another show of nepotism by the Mayor a Mr John L. Maloka, 1449 Sabuza Street, Boiphatong has been allocated a business site in Boiphatong on false bank certificates. To crown this issue further this very same person was personally approached by the Chairman of the Trades Committee, the late Mr Chakane and the Mayor himself." -- There is no such. (10)

Then paragraph 5, "The good intentions of our Central Government are tarnished by some incorrigible councillors' very unreliable to the people who elected them into the Council. -- That is not so.

Yes. And then the allegation was that "They create situations that lead to riots in our townships." -- That is not so.

This meeting was on 27 November 1984? -- That is true.

Some three months after the unfortunate events of 3 September? -- That is true. (20)

Did you not consider it relevant to discuss what was the cause or what may have been some of the causes of the troubles of 3 September on your Council? -- There was already a talk that there was going to be a Commission of Enquiry which will be independent and I therefore thought it wise not to do anything and leave it for the Commission of Enquiry.

"Example: Mr. P.S. Mofokeng of Sharpeville, he broke the allegiance of the Bafutsana Party, the very party that voted him in during the elections. He rebelled against the Bafutsana Party after being lured to join Lekoa Party on being promised (30) a business stand by members of the Mayor's LPP." -- No that

is/.....

is not so.

Well let us just deal with one easily ascertainable fact. Was Mr Mofokeng in fact awarded a business site? -- No.

Are you sure about that? -- Yes.

Well we will take that up a little later with you. Are you saying that there was no application and that there was no consideration and no allocation of a business stand to Mr Mofokeng? -- I never promised anybody a site which is a business site and if my memory serves me well Mofokeng never got any site of that kind. (10)

Why do you say if your memory serves you well? Would you have remembered it if one of your councillors who had not been in business up to then was awarded a business site? -- I say if my memory serves me well because I am no member of the Trade Committee. I only read the minutes from the meetings they hold so therefore from reading the minutes that is why I say if my memory serves me well I never read from their minutes where they were discussing Mofokeng being allocated a site of business.

"To crown this there are still many more councillors (20) in the Council sitting on false platforms. There is a great feeling of discontentment in their wards because they have ditched the people who voted them into the Council by joining the Mayor's party." What do you say to that? -- There is no truth in that.

Yes. "And I hereby appeal to the introduction of a Commission of Enquiry because these people have created simmering time bombs in our townships and the situation must be rectified without delay." -- As I have already said I accepted that one of the Commission of Enquiry because it (30) was going to put the record straight.

Right./.....

Right. And the final paragraph, "No new houses have been erected in the Zandela township with the result that families have to be accommodated in the single quarters of Zandela whilst the single quarters was never intended for these purposes."

-- As far as I remember houses are being erected in Zandela, even during that time, and if I remember well there is a high demand of housing as a result of which we sometimes make use of hostel dwellings as accommodation for families. Though at times we say we do not want to allocate them accommodation in hostel dwellings but the community itself presses on that (10) that they want accommodation and as long as it is an accommodation they are prepared to go and occupy it.

Did you give evidence before Professor van der Walt? --
Yes I did.

Were you made aware of his main findings? -- If I remember well I read about that from the newspapers.

Was his report not discussed or his findings, or his recommendations not discussed on your Council? -- If I remember well according to my memory that report of his is up to now not yet released. (20)

But what about his main findings and recommendations, were those not made available to your Council? -- No not yet.

Would you please have a look at EXHIBIT AAQ(2).

COURT: Have you got it there? -- Yes I have got it.

MR BIZOS: Do you see that it is a statement by the Honourable G. van N. Viljoen M.P., Minister of Co-Operation and Development and Education? -- Yes I do.

Have you seen this document before? -- I have not seen it.

Is His Lordship to believe that your Council or your (30) Executive Committee did not take notice of the Minister's

public/.....

public statement as to the possible reasons for the state of affairs in your area? -- I do not remember us discussing an issue similar to this.

Would you agree that it would be hardly a matter that you would have forgotten about having regard to the standing of Professor van der Walt and the standing of the person who made the statement? It is not something that you would just have mentioned in passing if you did discuss it? -- I believe I would not have forgotten that.

You would not have forgotten. Well as you have had (10) no opportunity of looking at the document before may I please refer you to the paragraph just above the middle of the page beginning "From his survey Professor van der Walt".

COURT: Let us number the paragraphs Mr Bizos. That will be paragraph 4. On that page we have seven paragraphs.

MR BIZOS: As Your Lordship pleases. Yes would you please have a look at paragraph 4.

"From his survey Professor van der Walt concludes that the problem behind the unrest and school boycotts in the Vaal Triangle to a large extent lies in the field of (20) Black Local Government. In view of the current difficult economic situation and its adverse effects, especially on the lower income groups in the Black community he especially emphasises the effect which the announcement of a proposed rise in the Municipal service rates by Lekoa Town Council had on the residents."

Now do you agree or disagree, as a person who is living in that community, with Professor van der Walt's view or not? --

Because of it being just a mere statement without any reasons why and how he came to this conclusion to make this state-(30) ment I am not prepared to agree with him.

Right./.....

Right. Well perhaps the Professor will be able to live with your judgment on it, but would you please tell us whether this is in accordance with your experience or do you say that the conclusion according to your experience is incorrect?

-- As I have already said it is difficult for one to judge this reasoning without having the other side of it, that is weighing two against one another in order to draw a conclusion and say whether this is correct or not.

You are living in that area, you were responsible as the Chairman of this Council and as its Mayor. Do you say that (10) this expression of the view by Professor van der Walt is incorrect? -- It is very difficult to give an opinion according to my experience because I do not have the facts.

Well do you realise that from what you said it may follow that you initiated a rent increase without having the facts? -- No that is not so.

Right. Could we please go to paragraph 6, 5 is an introductory paragraph My Lord. First he finds that there is enormous ignorance and lack of understanding among the Black residents about the local government system in general and (20) especially about the factors influencing the determination of Municipal rates and levies. Would you agree with that conclusion arrived at by Professor van der Walt? -- No I would not agree with that.

Yes. If Professor van der Walt's view is correct then such steps as you may have made prior to 29 June and thereafter in order to inform the public, according to Professor van der Walt, were, did not amount to very much? -- I do not know but I do not believe that is the position.

Yes. The Minister goes on to say:

(30)

"I fully endorse his recommendation that urgent attention should/.....

should be given to improved communication between the Town Council, the Development Board and the public at large and that a sustained public education and information campaign on the functioning of local government should be launched, also involving the schools. I give the assurance that this matter will receive the highest urgent priority not only in the Vaal Triangle but throughout the country in all Black Local Government areas."

Now you told us that your Council did not even discuss this statement? -- We never ever discussed this statement. (10)

Well would you agree that the Minister's call for an urgent priority more particularly in relation to the Vaal fell on deaf ears as far as your Council was concerned? -- Well I do not know really where this question is driving to because I have already said we never discussed this thing.

COURT: But did you do something after the riots to improve your public image or to liase with the public? -- We held a lot of meetings with different organisations.

I thought I heard that at some stage a Public Information Officer had been appointed? -- That is the wish of the (20) Government that we have such an officer. We do have a post in our organic programme but we have not yet appointed someone in that post. We, all we did was to advertise it. On this we got applications from different people who were interested in the post, though we have not yet considered any of those applications up to date.

MR BIZOS: Is that the only step that you took? -- That is all we did, except of course that we do have a news magazine or pamphlet which is distributed amongst the community there titled, or with the heading "Buladithaba tsa Lekoa" (?) (30)

We move to paragraph 7 of AAQ(2):

"Secondly/.....

"Secondly Professor van der Walt more specifically recommends that an official investigation regarding the amounts and the composition of Municipal rates and levies in the Vaal Triangle be instituted in comparison with rates and levies in other Municipal areas."

He goes on to say:

"I accept this recommendation and I have already instructed the Director of Local Government in the Department of Co-Operation and Development, Mr John Hitge, to undertake this investigation. The Lekoa Town Council (10) has already decided to postpone any rise in Municipal rates and levies until at least July 1, 1985 and undertake that no increase in rates will be considered before the investigation has been completed and the public informed about its finding."

Now do you know, do you know how your rent and service charges compare with other areas at the end of June 1984? -- According to the report I got from the Hitge-Matthee Committee our rents were more or less the same with other areas.

Well I am going to put to you that in fact, even without (20) the increase, your rents were the highest in the country as at 1984? -- I am not in a position to comment on that, if that is what you put to me. All I know is that from the information which I got, that is the report I got from the committee which was appointed, independent committee, our rents were more or less the same.

Could we please turn to paragraph 1 on page 2.

ASSESSOR (MR KRÜGEL): That will be paragraph 8.

MR BIZOS: Does Your Lordship want to

COURT: Yes we numbered them consecutively, it will be (30) paragraph 8.

MR BIZOS:/.....

MR BIZOS: As Your Lordship pleases. We will finish with 12 My Lord?

COURT: Yes, as Your Lordship pleases.

MR BIZOS: Would you please have a look at paragraph 8 of the report:

"Professor van der Walt points out the urgent need for additional sources of Black Local government revenue to supplement their revenue from rates and levies. In this regard the Honourable J.C. Heunis, Minister of Constitutional Development and Planning announced last month(10) that the government approved that legislation be submitted to Parliament at its forthcoming session to provide for two new sources of revenue. This will be a Regional Service levy and a Regional Establishment levy, the income of which will be available, amongst other purposes, for supplementing the revenue of Black Local Authorities and which should therefore reduce the pressure to raise rates and levies on residents as soon as it becomes available."

Now I want to deal with the first sentence only. You did (20) not consider, I think you have already told us, going to Vanderbijlpark or Vereeniging or other places where your population spent its money? -- I have said that already.

Yes. "Fourthly Professor van der Walt points out", this is paragraph 9:

"Fourthly Professor van der Walt points out that as a result of an extensive failure on the part of the Vaal Triangle residents to pay any rates at all during recent weeks the Lekoa Town Council is experiencing serious cash flow problems to continue its basic services (30) to the community. I accept his recommendation that

arrangements/....

arrangements should be made enabling residents to spread their arrear payments over a reasonable period and a further announcement in this regard will be made soon."

Now I want to ask you this, we have already heard that no rent increases since 1977 were gazetted, do you agree with that? -- Yes as far as I know that was the procedure and those were being done by the Development Board.

Yes. I am not asking you whether the perception is correct in law or not but do you, have you heard that people believe that because of the absence of such advertisements..(10)

COURT: Well believe now or believed on 3 September 1984?

MR BIZOS: No My Lord, this deals with the subsequent events, after

COURT: Well am I interested in what people believe now? The scope of this enquiry is wide enough Mr Bizos.

MR BIZOS: As Your Lordship pleases. I will leave it at that My Lord but there were some questions by the State in relation to the difficulties that the Town Council is finding itself in. But if that is Your Lordship's view I will not take it any further. I think that is fair enough, with respect. (20)

Then paragraph 10:

"In the fifth place Professor van der Walt finds that there are persistent and extensive rumours about corruption, self-enrichment and mal-administration within the Black Local Government system in the Vaal Triangle."

What do you say about that? -- I do not agree with that.

You do not agree with that? You knew of no corruption or mal-administration? -- Well the Town Council does not apply anything which has to do with corruption.

No, the Professor says that there are persistent and (30) extensive rumours about corruption, self-enrichment and

mal-administration/.....

mal-administration within the Black Local Government system of the Vaal Triangle. -- I do not agree with that.

You never heard of any rumours? -- Well there are rumours in the streets. Well to be asked whether I agree with the rumours or not then that is a different case.

No, did you agree that there were persistent and extensive rumours about corruption, self-enrichment and mal-administration? -- Well people are talking of that.

COURT: No, no, not now. I am interested in the period of 1984. I do not want to know what the people are talking (10) about now. What was the position in 1984? -- During that period it never got to my ears.

MR BIZOS: The Minister's report is dated 4 January 1985 and he deals with the 1984 period. Do you say that you never heard of any rumours of corruption, mal-administration and self-enrichment during 1984? -- It never came to my ears, I never heard of it.

You never heard of it before 4 January 1985? -- That is true, nothing was brought to my attention.

ASSESSOR (MR KRÜGEL): Not even on 27 November 1984? -- The (20) question really is not clear to me. I do not understand where the question is driving to. I want to understand the question in order to answer the question.

Alright. On 27 November 1984 apparently you had knowledge through eyes and ears of these rumours by way of this motion which was put before the Town Council?

COURT: The motion referred to is AAQ(26).

ASSESSOR (MR KRÜGEL): AAQ(26). -- It is true that I heard about this on that date and in fact I knew what was happening and although of course I will say in our introductory meetings (30) which we held prior to that day we had already told the public that/.....

that should they feel there is something they are not happy about they must come in contact with us.

MR. BIZOS: Mr Mahlatsi why did you want to distance yourself completely from these allegations before the Learned Assessor drew your attention to AAQ(26)? -- It is because one cannot really rely very much on rumours that are going about there. It is wise to attend to something when a person comes direct to you and say look this is what happened to me. Then that one I would accept as the perception of that person who alleges that that happened to him or her. (10)

Yes the question was put two or three times on the basis of the persistent rumours which you denied that you heard anything about. -- That is true.

Because you see in addition to AAQ(26) it is clear from paragraph 10 of AAQ(2) that Professor van der Walt himself must have discussed this matter with you. The report of the Minister says he recommends an independent Judicial Enquiry into such allegations.

"This recommendation was welcomed by the Mayor and Deputy Mayor of the Lekoa Town Council." (20)

-- I accepted the independent Commission of Enquiry.

Yes. -- That that can take place.

Yes. Because Professor van der Walt goes further and elevates it to something more than merely loose talk in the street because he says:

"Professor van der Walt's finding in this regard confirmed the results of investigations into alleged irregularities which I understand the South African Police have been conducting during the past few months. In principle I find Professor van der Walt's recommendations of a Judicial Enquiry fully acceptable. However, since/..... (30)

since I have been informed that a number of prosecutions will be instituted in the very near future as a result of the investigations already completed by the South African Police I consider it advisable to postpone a final decision on the Judicial Enquiry until more details about such prosecutions are available."

Now did it come to your notice, or did you know before the 5th, before this report was made, that the police were investigating a number of allegations of bribery and other irregularities committed by members of your Council? -- I (10) was not aware.

You were not aware of it? -- Not at all.

Were you not aware of the fact that investigations were going on in relation to the conduct of Mr Majela? -- No I did not know.

When did you hear for the first time that there were such investigations? -- I did not come to know about any investigations pertaining to Majela in that respect. I only came to know about that the first day when he, Majela, appeared in court. (20)

I see. And did you learn that it was alleged that he had received R90 000 worth of bribes? -- Yes it was in the newspaper.

Now Mr Majela, although he may have been alleged to have committed these offences whilst it was a Community Council was still a member of your Council during 1984? -- That is true, even up to now he is still a member of my Council.

COURT: When did the case start against Mr Majela? -- I cannot quite remember but if I remember well it was just after 1984. (30)

MR BIZOS: In fairness My Lord the first newspaper publicity that/.....

that we have of it is on AAQ(15) which is 12 March 1985. Would you agree Mr Mahlatsi that in a closed community, in a thickly populated area like Lekoa, public perceptions are formed about dishonesty or dishonesty of a man often before he comes to court, especially if he holds public office? -- I would not say that is so.

You would not say. Would you not say that these allegations were rife and although there was a new dispensation, so to speak, from Community Councils to Town Councils, the main actors of the scene were the same people? -- The most of the(10) people were re-elected into Council by their different wards.

Yes. And would you agree that people earning approximately R1200 per year would be most resentful if their public representatives were said to want three and sometimes six thousand Rand for the allocation of a trading site? -- I would not know what the feeling of the other person is about that but what I do not agree with is that a person will have to pay a certain amount in order to be allocated a business site.

I would like to deal ... I am sorry, did you want to add something? -- Nothing. (20)

I would like to deal with paragraph 11:

"Finally Professor van der Walt emphasises the urgency of providing greater participation for urban Black communities in broader national political decision making on matters affecting their interests."

Do you agree with that? -- Yes I agree with that.

Now I would like to dwell on this for just one moment with you Mr Mahlatsi. What is your standard of education? -- Matric.

Matric. Would you agree that in the commercial field (30) you have achieved a considerable amount? You do not have to be/.....

be coy about it, I mean everybody knows. -- Commercial field?

Yes in business, you have achieved quite a lot? -- Yes I quite agree with that.

Yes. And what I want to ask you is this, do you share the view of your fellow Africans that an injustice has been committed to you in not having meaningful political rights as a South African citizen? -- That is my view, that we are not at all satisfied.

Yes. It is not your view, it is not your view but would you concede that there is a predominant number of people in (10) your position who resent the fact that they do not have such political rights?

COURT: How do you mean? Mayors of Town Councils, what do you mean in his position?

MR BIZOS: Black people like yourself? -- I am not prepared to comment about how the next person feels. I am talking about myself, the dissatisfaction I feel about it.

Were you aware that there was a considerable body of opinion in 1983 in your community resenting the fact that no meaningful political rights were granted to the African (20) people, as distinct from the Tricameral Parliament which was introduced for Whites, Indians and Coloureds? -- That is true. From information I gathered in reading newspapers.

Yes. And would you agree that African leaders of different political persuasions condemned what was happening in 1983 in the strongest possible terms? -- That is true, they condemned it in the strongest form because they were against the idea of their being excluded.

Yes. And did the Central Government say that Africans were not left out altogether because they were being given (30) Town Councils, local government? -- That one I cannot recall.

Well/.....

Well did you not recall some of the rhetoric against the principle of Town Councils at the time, that the Tricameral system was for Whites, Coloureds and Indians and that a bone had been thrown at the African people by giving them Town Councils? Did you not hear that sort of rhetoric during 1983? -- No I did not come to know about that.

Let me give you some examples. Were there or was there not condemnation of the system by for instance Chief Mangosuthu Buthelezi? In public? -- Condemning what, Tricameral Parliament? (10)

Tricameral Parliament and merely giving Africans Town Councils. -- Well that was not against the Town Councils was it?

No what I am putting to you is that because the Town Councils were held up as a substitute for meaningful political rights which you yourself desired the Town Council system came into disrepute right across the spectrum of African opinion? -- I cannot remember anything being said about Town Councils though in fact I am in a position to tell His Lordship that there was a very strong feeling about the Tricameral Parliament insomuch that I was one of the people who had a very strong feeling against that. (20)

Now would you agree that in October-November 1983 many people in your community were expressing the views that are in some respects described by Dr Viljoen:

"Finally Professor van der Walt emphasises

COURT: Paragraph?

MR BIZOS: 11 against My Lord.

"Finally Professor van der Walt emphasises the urgency of providing greater participation for urban Black communities in broader national political decision making/..... (30)

making on matters affecting their interests."

Was not really the Minister summarising that strong feeling against Town Councils by giving this as the final reason for the

COURT: But is he doing that? Is it not something entirely different? Is he not saying that there should be greater participation on a national basis? That has got nothing to do with Town Councils?

MR BIZOS: No My Lord, but if Your Lordship reads the report as a whole, because he was really asked, Professor van der (10) Walt was asked what the reasons for the difficulties in the Vaal Triangle were and then if Your Lordship reads paragraph 5 of AAQ(2), that is on the first page, reports present six main findings and recommendations falling within the political field which I would like to deal with briefly. So the way I read it, with respect, is that one of the reasons for the dissatisfaction is the lack of meaningful political rights.

COURT: Yes but not necessarily in substitution of the Town Councils?

MR BIZOS: Oh no, I am not saying in substitution, if I said(20) that I was wrong and I apologise. Not in substitution. But that the, could I rephrase the question in order to, I see that I may have overstated the position. I would like to rephrase it?

COURT: Yes.

MR BIZOS: You see would you agree that in terms of this report that has now been placed before you that Professor van der Walt appears to be of the view that the absence of such political rights on a national political decision making bodies was part of the trouble in Lekoa? -- I do not want (30) to agree with him there.

You/....

You do not want to. Very well. -- I do not want to agree with him there.

COURT: Well let us get clarity what you agree and what you disagree with. Do you agree or disagree that the lack of participation in broader national political decision making was a cause of the riots? -- Even if maybe that was one of the reasons it was not clear whether it is one of the reasons or not. I was giving my own opinion as to how I feel because of my being deprived as a person of the right to be present wherever I am being discussed or any decision is taken about me (10) in the political field.

MR BIZOS: Yes. Would you not agree that your view is shared by many of the people in your community? -- I am not in a position to say no nor am I in a position to say yes. It is possible that there are some people with the same view and it is possible again that there are none.

Were you not aware that during October/November 1983 many members of your community would not have anything to do with a Town Council election because they considered it as an insulting substituted to meaningful political rights? -- No I (20) was not aware of that.

Not aware of it. Well are you aware of the fact that the average poll in Lekoa in November 1983 was just about fourteen percent? -- Yes I am aware of that.

Yes. Well would you consider that as some evidence of either apathy or deliberate abstention from this system? -- Prior to these elections I became aware of different reasons and facts.

Well would you

COURT: What does that answer mean? It is put to you that (30) it was either evidence of apathy or of deliberate abstention from/.....

from the system, or both. Now what is your answer? -- No that is not so.

MR BIZOS: Well what do you say the reason for the low percentage poll was? -- Number one the threats which were being made to the community played a part on that.

Yes? -- And this varied from area to area depending how serious the threat was made. Some places it was not that serious and therefore you would not have exactly the same.

Now

COURT: Was it anything else apart from threats? -- My (10)
second reason is not everybody will do something when he is requested to do so, that is the other reason. Some stayed away deliberately.

MR BIZOS: Some stayed away deliberately? -- Deliberately.

Yes, now let us just

COURT: And some were disinterested? -- Yes they did not care about what is happening, they had no interest whatsoever.

MR BIZOS: They had no interest. -- In other words meaning that whatever is happening to them it is alright.

Yes. Let us just examine some of the reasons that you(20) have given to His Lordship, or one of the reasons. Do you know of anyone, any person who was arrested in connection with any charge of intimidation in 1983 Council elections? -- No.

Not. Do you know of anyone perhaps who was summoned on a charge of intimidation and was brought to court and might have been convicted?-- No.

Do you agree that there was police presence at this election? -- Yes there were policemen assisting at the polling stations. (30)

At the polling stations, yes. And anybody that wanted

to/.....

to go and vote went and voted? -- From the reports received the intimidations were not in the mere vicinity of the polling stations. These were being carried out far from the polling stations.

Yes. Well we have heard this said before but did any unsuccessful candidate possibly lodge an objection or make an application to court to set any election aside because his supporters were threatened by anyone not to go and vote for him? -- No.

No. Now would you agree that there is a perception in (10) the community, well let us put it this way, that there was a perception in your community during 1983 that the Community Councils were really doing the bidding of the White officials of the Development Board? -- No it did not come to my ears.

Did not derogatory words come to your ears in relation to members of the Community Councils during 1983? -- No.

Did you not hear anyone complaining that the Community Council system was a system which really used puppets, or that the councillors were mere puppets of the officials or of the Government? -- Well the word puppet is being used in general (20) all over.

Yes. Well let us leave out its general use. Was it used in relation to the councillors? -- From my experience in the area where I was it was never used against the Council or the councillors, though of course from information from other councillors who are in other wards they say it was used towards the councillors.

Would you agree Mr Mahlatsi that this was one of the first elections under what were colloquially known as the Koornhof Bills? Every effort was made to get as high a (30) poll as possible? -- I do not know which are Koornhof Bills unless/.....

unless you tell me which are those.

I am sorry, I did not want to introduce this. Was every attempt made to make the 1983 elections with as high a poll as possible? -- That is true. Each and every candidate was trying to get or canvass for more votes.

COURT: Did you do more than you did at the previous election for the Community Council? -- During the time of the Community Councils I was unopposed.

Well others then, did other people, other candidates do more than they did at this, do more when they were in the (10) 1983 election for the Town Council than they did previously in the Community Council elections? -- In most cases, that is during the time of the Community Councils, most of the people who were elected into the Council were unopposed and it is therefore difficult for me to tell His Lordship in comparing now the previous votes and the votes in question now because in 1983 people were being opposed and therefore had to add some effort in order to get more votes.

C192 MR BIZOS: Well do you recall that buses had been hired that went to the workplace of the large employers in the area? (20) -- By whom?

By various people concerned with this election. Do you know that buses were being used to go to the workplace? -- No that I do not know.

Yes well I am going to put to you that such buses were used and they almost invariably came back empty?

COURT: Well will you give the witness an example. Where would the bus start and where it would go.

MR BIZOS: Yes My Lord, the bus would go to the various large employers in the area and invite people to come and go.... (30)

COURT: Yes well to which employers did the bus go to? Let

us put it completely then he can say "I know about it" or "I do not know about it".

MR BIZOS: Yes, well My Lord I have no specific examples. I have a generalised instruction. But he says he knows nothing.

COURT: Well he does not know about it.

MR BIZOS: You have not heard of any buses or Kombis being used to get workmen to come and vote? And coming back empty? -- No.

Now would you agree that the vast majority of the people in your area during the period of the Community Councils (10) was so against the system that you found it difficult to find candidates to fill the posts? -- During the time of?

The Community Councils. -- No. There was some interest during that time.

Well then how do you explain the number of positions that were filled up on an unopposed basis? -- Well I take it the following way that if a person is not opposed it means in other words that the constituency there in the ward accepts that person, there is nobody else who is opposing that person within that community. (20)

Would you agree that despite the change over from Community Council to Town Council the perception in the community was that it is just the same old thing? -- I would not agree but there were those perhaps who were having that in mind, or who had that perception.

COURT: How many candidates, can you remember, were unopposed in the new Town Council election? -- If I remember well there are about eight. Eight of the thirty-nine wards.

MR BIZOS: And in the Council before that, in the Community Council? -- Twenty plus were unopposed. (30)

Would you agree with some of your councillors who have already/.....

already given evidence before His Lordship that because the main positions on the Council, its Executive Committee and its Trade Committee, and Housing Committee were the same persons as before that in the day to day running of the affairs of the Council's affairs in relation to the community there was no perceptible difference to the average person? -- I do not believe so because for instance I was in the Trade Committee during the time of the Community Council and at present I am no member of the Trade Committee. I do not think the people could have had that interpretation of the whole system. (10)

Who was mayor before the November election? Or Chairman of the Council? -- I was Chairman.

And although your official designation was Chairman of the Council you were also known as the Mayor before November 1983? -- I was not known as a Mayor nor was I referred to as a Mayor.

Would you agree that there was a dispute in your community when the decision was made to increase the rentals, there was a dispute in the community and amongst councillors themselves as to who was really responsible for increasing the (20) rent? -- No that is not correct. The reason being that each and every councillor held a meeting on the 5th to discuss this issue of the increased rentals.

Yes. I do not know that that is a reason for your denial but let us just see whether the admission or the denial are clearly on record. Do you say that there was no confusion as to who was responsible for the increase in the rent? -- No there was none.

Was there any query by any member of the Council at any time as to who was responsible? (30)

COURT: Now how do you mean, a query from a councillor at what instance?/.....

instance? Where?

MR BIZOS: At any meeting.

COURT: Of the Council?

MR BIZOS: At any meeting of the Council. -- No.

Would you please have a look at EXHIBIT AAQ(22).

COURT: Now what has happened about the request by myself that there should be an agreement between the State and the defence that these photostat copies of documents are correct as far as newspaper articles are concerned? We have been continuing on that basis and I have still been waiting for an agreement(10) on that because if there is no agreement I will not allow it.

MR BIZOS: My Lord I understood from My Learned Friends that there was agreement in principle. They raised a question of the two that related to Sergeant Branders which really is keeping up the work so to speak. Could I ask Your Lordship for an indulgence to refer it to Mr Tip and Mr Fick so that they can get down and hand a formal admission

COURT: I suggest that if there is no objection made it is taken that it is correct, if the original is called for it is called for but it must be done within a reasonable time. I do (20) not want to have it afterwards during the argument.

MR BIZOS: No, we will avoid that My Lord.

MNR JACOBS: Ek mag net vir die Hof sê ek het vir mnr Bizos gesê dat op sekere van hierdie goed is daar datums op voor en ons weet nie of dit presiese datums is nie. As hy vir ons kan help om iets te bring dat ons die oorspronklike miskien sien or iets van die aarde maar daar is probleme wat ons nie kan sê, die datum aanvaar nie. Dit kom nie op die dokument self voor nie, daar word 'n datum opgeskryf. Ons weet nie hoe word dit opgeskryf nie. Dit is nie net 'n kwessie van in (30) beginsel. In beginsel sal ons dit goedkeur as ons die datums

in/.....

in meer besonderhede kan kry, maar dit kom nie van ...

COURT: You know in an ordinary civil matter this sort of document would not be allowed, one would at least need a tearsheet. So you are taking a bit of a shortcut Mr Bizos.

MR BIZOS: Yes but of course My Lord in those are ex parte applications and the Court wants to satisfy itself that there had been proper advertisement.

COURT: Yes, no but what is relevant here is that the date is not part of the article itself and we do not have the date in the printed version. (10)

MR BIZOS: As Your Lordship pleases. I can assure Your Lordship that

COURT: Anyway we will leave that to Mr Tip and to Mr Fick but I want this sorted out rather quickly.

MR BIZOS: As Your Lordship pleases.

COURT ADJOURNS FOR TEA. COURT RESUMES.

ESAU CHAKE MAHLATSI: d.s.s. (Through Interpreter)

FURTHER CROSS-EXAMINATION BY MR BIZOS: Mr Mahlatsi when did you see this advertisement for the first time? -- I cannot quite remember the date. (20)

Was the advertisement ever discussed at your Council?

-- Yes we discussed it.

When? -- In our meeting, if I am not mistaken it was during our meeting in August when we referred to this notice.

Yes. In what connection was it referred to? -- That there were no objections from the community.

Oh so did you discuss the advertisement for the first time after the advertisement had appeared? -- That is true.

And was the advertisement itself placed before the Council?

-- No it was not. (30)

Where did you yourself see the advertisement? -- I saw it/.....

it in the office of the Town Clerk.

Was this not at a meeting of the Executive Committee, was it just a private meeting? -- I had gone to see the Town Clerk on certain reasons when I saw this.

Yes. Did you see anything wrong with the advertisement?
-- No.

As you see it there now do you see anything wrong with it? -- No I do not see anything wrong about it.

But have a look at it "Town Council Lekoa Development Board, Sebökeng", what did the Development Board have to (10) do with this advertisement? What had the Development Board got to do with an independent Council? -- That I do not know because this was an administration part of it officially and I cannot comment.

Who purports to have signed it? -- I do not know, as I say I only saw it in the offices of the Town Clerk.

Yes but when you saw it did you not raise the question "What is Mr Ganz issuing notices in our name for, who is Mr Ganz"? -- No I did not question that.

Why not? -- My attention was not drawn to that. In fact (20) when I saw it there we were only looking at the contents of the notice as a whole, that is what is it about.

Yes. You see I am going to suggest to you that even when it came to the drawing up of formal documents during the Council period so little was thought of the independence of your Council that members of the Board signed your notices?
-- I have no answer to that.

Yes. And would you agree that if any people saw this advertisement in the Rand Dail Mail and/or the Vaderland the impression that would have been created was that their area (30) was still run by the Board? -- I do not believe so.

Would/.....

Would you not concede that at the very least it would have the effect of confusing people as to who is the local authority that is governing them? -- I do not believe so.

Well are you telling His Lordship that you see, even now you see nothing wrong with this advertisement? -- I see no mistake about it.

And you believe that it was really Mr Ganz's business to issue this notice? -- As I have already said this is being done administratively and therefore how much law is being attached to what is being done by them there I am not in a position (10) to tell His Lordship.

Would you not agree that the words of the leader of your party in EXHIBIT AAQ(16), that is a public statement made by Mr Thabe, headed "Power in the Councils? Let's First ask the Minister" would still be perceived as having some truth in it in 1984? -- I do not understand the question. Is the question that we always say we want to ask from the Minister for whatever we are supposed to do?

No that the perception of your community was that you were really a toothless and powerless body. -- No I do not (20) believe that, that is not so.

Well would you agree that the rental in the Lekoa area had been increased almost every year from 1977 when you became a councillor? -- Even before the Council the rentals were being increased.

But every time there was an increase were substantially similar reasons given to the people? -- No I do not believe so.

Well did you not promise electricity in 1977 and 1978 and 1979 and 1980 and 1981, 1982 and 1983? Were there promises?(30) -- I will have to check on the budgets for those years to see what/.....

what were the promises.

But what you were tell your constituency every time there was a rent increase, were you not saying that it was in order to introduce electricity and to pave the roads and to build creches and to have high mast lighting? Were those not the usual annual promises? -- If that be the case that that was the reason advanced each year when rents were being increased it would mean that there were such projects but we would just do a portion of that area, electrify that and then the following year again the need comes that we must electrify the (10) other portion, therefore it would be contained in each and every budget.

How, you were on the Council, how much was for electrification in the 1983 budget? -- I would not remember the figures.

Was it anything like eight million Rand? -- Not in 1983. Or 1982? -- Not in 1982.

Was there any particular reason why it was budgeted for at eight million Rand at 1984? -- It is because of the pressure from the community that each and everybody was to have (20) electricity in the house. Now to try and avoid that that is why. In fact another reason why we had to do it that way was because we did not want to have electricity in the house next to the other one and the next door neighbour does not have it so we wanted to complete the whole project.

Did it not occur to you during the discussions of this budget that the time was not opportune for such a large capital expenditure? -- I have already explained that in my ward I explained to the people there as to what the expense will be and they insisted that this project be carried out, (30) or the projects requested by them be carried out.

Was/.....

Was there electricity already at your ward? -- Yes.

Well why was your ward so anxious that there should be a capital expenditure of eight million for electricity if they already had it? -- I said some areas were already electrified.

COURT: Some areas in your ward or some -- In my ward.

In your ward? -- Yes.

MR BIZOS: Will you please have a look at EXHIBIT AAQ(23).

COURT: These are the Minutes, well this is the agenda for the fifteenth special meeting of the Executive Committee on (10)
4 November 1985.

MR BIZOS:

Have you seen the document attached to this agenda before? -- I have seen it.

Now I want to try and cut it short. Would you agree that the suggestions that are made here in relation to the manner in which rent is to be increased were not carried out prior to

COURT: Before this is interpreted I see that the first document is the agenda of this meeting. Could you just interpret this please. And the two items on the agenda are "Appli- (20)
cations for leave of absence" and "Strategy for collection of arrear rental and service charges", attached? -- That is true.

Now how does this document which is attached relate to this strategy?

MR BIZOS: May I be of assistance My Lord?

COURT: Yes.

MR BIZOS: It is in two parts My Lord. The first part is that strategy to collect arrear rentals and if Your Lordship goes on to paragraph 4 objective IV, approximately ten or twelve pages into the document. (30)

COURT: Yes, thank you.

MR BIZOS:/.....

MR BIZOS: Did you study this document Mr Mahlatsi? -- Yes I did.

Do you agree that objective IV is to establish a fixed procedure for the handling of increases where proper consultation, climate evaluation, climate creation and study of the situation are perspectivevely required? Did you study that part of the document? -- What page is this? I cannot find it.

COURT: Yes it is a bit difficult to find.

ASSESSOR (PROF. JOUBERT): If you start from the back it is about six or seven pages from the back. (10)

COURT: I think it would be best if we start numbering these pages Mr Bizos.

MR BIZOS: May I My Lord?

COURT: Let us start with the first page being 1, that is the agenda. No. 2 will be Objective I, 3 follows on that, 4 follows on that, 5, 6, 7, 8 has on it "Note" and below that "Lekoa Town Council". Are we on the same page still?

MR BIZOS: Eight My Lord?

COURT: Eight has in the second

MR BIZOS: "Lekoa Town Council". (20)

COURT: "Lekoa Town Council" and "Note". Yes.

MR BIZOS: "Objective II" is on page 12.

COURT: 12 has "Objective II" yes.

MR BIZOS: "Objective III" is on page 14, and "Objective IV" is on page 16. The Interpreter has lost us. I will just mark it all and help the, assist the Interpreter. I make it 25 pages My Lord.

COURT: I have 24 pages.

MR BIZOS: Is "Objective IV" on page 16 My Lord?

COURT: Yes on my page 16. We have 24 pages. Is there (30)
a duplication in your copy?

MR BIZOS:/.....

MR BIZOS: No My Lord, it is my fault, I skipped 20 for some reason. May I have your copy please Mr Interpreter? Oh I see it has been marked by the attorney. Are you on page 16?
-- Yes.

Will you look there and see to establish the fixed procedure for the handling of increases where proper consultation, climate evaluation, climate creation and a study of the situation are prescriptively required, and then there are a number of things set out as to what ought to be done. Did you study this document at the time that it was placed (10) before you in November 1985? -- Yes it was in a meeting and we discussed it in that meeting.

Right. In order to try and cut it short and not read it through can you recall that many of the things that are recommended here were not done prior to September 1983? -- They were done.

Oh so you say that everything that you did prior to September 1984 was in accordance with the recommendations of EXHIBIT AAQ(23) page 16 et seq? -- No this was only, this document was only drafted after. We could not have used (20) this document to do what we are doing before.

I will try again.

COURT: Yes, your question was vague.

MR BIZOS: I will try again. Do you say that, well let us try and make it even clearer.

COURT: Well I will put it. In this document from page 16 onwards certain recommendations are set out. What is set out that you should do had you done that previous and that is before September 1984? -- That is true. It may even help us better if we can go through the document step by step. (30)

MR BIZOS: Yes. Well I would like to generalise it. Would you/.....

you say that things were done so well during June, July and August 1984 that it was not really necessary to have such a lengthy document such as AAQ(22) in 1985 as to how it ought to be done in the future? -- That is what I am saying.

Yes, My Lord I am corrected. I said 22 and I should have said 23. It has been your attitude Mr Mahlatsi has it not that the troubles of the Vaal Triangle were not really as a result of any act or omission on the part of the Council or the councillors? -- That is true.

COURT: What do you say was the cause of the troubles in (10) the Vaal? -- I believe there were meetings which were held after 5 August until the day of the riots. During that period some meetings were being held.

MR BIZOS: Let me see if I understand you correctly. Are you telling His Lordship that what was done and said at those meetings led to the riots? -- That is true.

And has that always been your view? -- Up to now, yes.

It has always been your view. And has it always been your view that really the population of Lekoa was responsible for this as a result of what happened at the meetings? -- That (20) is true.

And are you sure that you are not making up this reason because you know what the accused are charged with? -- No I am not making the reason because of my knowledge of the accused who are being charged with a certain crime. I mentioned that in my evidence that I even tried my utmost to have these meetings stopped.

And tell me did you ever advance any other reason for the troubles in the Vaal? -- Not that I can remember.

Yes. Because I am going to put to you Mr Mahlatsi (30) that you are on public record for giving an entirely different reason/.....

reason at the time that it suited you to say other things.
What do you say to that? -- I would like to know about that.

Yes, you were recorded as having made a statement which was published in The Sowetan on 20 September 1984 in which you gave an entirely different reason. I want to show it to you and read it to you. I want to apologise for the quality, or lack of it, of the copies My Lord but it was the best we could do.

COURT: Why do we have some copies black on white and others white on black? How does this come about? (10)

MR BIZOS: For the sake of completeness but I think it is as a result of the type of machine that one uses. I do not think that this was done on the Xerox but on one of those old processors.

COURT: What is the heading supposed to be? Before the word "Mayor" emerges?

MR BIZOS: "Lekoa Mayor Emerges".

COURT: Yes do you want to hand this in?

MR BIZOS: As Your Lordship pleases.

COURT: This will be AAQ(28). (20)

MR BIZOS: Let us just read this and see whether you agree with its contents Mr Mahlatsi.

MNR JACOBS: Edele gaan die dokument dan in ook op die voorwaardes van wat die ander ingegaan het?

HOF: Al die dokumente gaan in op dieselfde voorwaarde. Dit wil sê dat die kopie bewys word n korrekte kopie te wees en dat die datum bewys word om korrek te wees as julle nie daarop ooreenkom nie.

MR BIZOS: "Lekoa Mayor Emerges" by Sam Mabe. Do you remember seeing Mr Mabe, you know him? -- Yes. (30)

It says: "The Mayor of Lekoa Town Council Mr Esau

Mahlatsi/.....

Mahlatsi yesterday emerged from hiding to announce the freeze of rent increases in the area and vowed that he was not going to resign." Is that correct? -- That is correct.

That is correct. "Addressing a press conference

COURT: Well just let us go on and number the paragraphs Mr Bizos.

MR BIZOS: As Your Lordship pleases. Could I just number them all My Lord.

COURT: Yes let us all number them. There are five paragraphs on the left-hand side and they run up to eleven on (10) the other side.

MR BIZOS: My Lord I wonder whether Your Lordship noticed a very short one, the third one on the right-hand column which I make eight. "He said the youths came".

ASSESSOR (MR KRÜGEL): Eight yes.

COURT: Yes, the top one is 6, ...

MR BIZOS: The top one is 6 and then I have marked "I went out of the house" as 9.

COURT: Yes.

MR BIZOS: And then "At one stage" is 10. (20)

COURT: 10, and then "He said" is 11.

MR BIZOS: "He said" is 11 yes. So paragraph 1 is correct? -- Yes.

"Addressing a press conference at the Council offices near Sebokeng Mr Mahlatsi denied that he was living in fear of his life. He said he was going to remain in the Council until asked to resign by the people who had elected him." Is that paragraph correct? -- That is correct.

"He said that the unrest in the Vaal was started by several thousand people who came to the area from outside (30) in buses." -- That one is correct too except the terminology.

Well/.....

Well did you say that? -- I said the damage caused in the Vaal Triangle was caused mainly by outsiders, that is people from outside the Vaal Triangle.

Well did you say that they came from outside in buses?
-- That is true.

Right. "Although he would not say where the people came from he said that they arrived the night before and the morning of the", I am sorry My Lord.

COURT: Well there is something typed over it, "and the morning of their ests" It would seem as if this has been (10) changed, this cannot be a correct copy Mr Bizos.

MR BIZOS: No My Lord with respect, it may be that it was just moved. Well could you just

COURT: Well I suggest you do not ask the witness whether he said this. Because this is insensible.

MR BIZOS: As Your Lordship pleases. "In the Vaal he said only three percent of the total population of 300 000 had participated in the unrest". Did you say that? -- I said according to my opinion in estimating.

Yes. "Mr Mahlatsi warned that the freezing of the (20) R5,50 and R5,90 increases would result in the deterioration of the standard of services provided for residents." -- That is true.

"He hoped that the freezing of the rent increases would bring an end to the unrests." -- That is true.

"Speaking to The Sowetan after the conference Mr Mahlatsi said that it was only through God's will that he had survived an attack by a mob of 800 stone throwing youths." -- Yes that is correct.

"He said the youths came in two groups while he was (30) at his home at about 08h30." -- Yes.

COURT:/.....

COURT: Is the time correct? -- The time is not correct, I said 07:30.

MR BIZOS: Yes. "I went out of the house, faced about 400 youths who told me they had come for me." -- No what they said "This is the one", "Here is the person".

Yes well, "I knew there was nothing I could do and I started retreating when they stoned me." -- That is true.

"At one stage as I was retreating with many of the stones landing on my body I saw another group of about 400 coming from behind and I don't know how I managed to escape, he (10) said." -- It is correct except for the way he refers to the stones landing on my body.

You say you did not say that? -- I only told him about a stone which hit me from behind.

Oh I see, so it was only one stone. "He said his Council's mandate to run the townships of Sebokeng, Sharpeville, Bophelong, Boiphatong and Zandela was still valid and he did not see the unrest as the residents way of passing a vote of no confidence in his Council." -- That is correct.

COURT: Now reverting to paragraph 1 did you emerge from (20) hiding yesterday, yesterday if the date is correct would then be on 19 September? -- That is correct.

Yes.

MR BIZOS: Now when you made this statement, when you made this statement did you intend to convey to the reporters there present the attitude that the public of Lekoa was really happy with what the Council had been doing? -- Yes in fact that was the idea because what I was driving at was to make them understand that no grievance was shown to us as a Council by the community. (30)

Yes. And at that stage when you were making this statement you/.....

you believed that the people of Lekoa had no valid complaints against the Council? -- Yes at that time.

Yes. And you also said that there were several thousand people who came to the area from outside in buses? -- That is what I said, that is correct.

Did you believe that to be correct? -- According to the information I received from my councillors who saw these things happening I accepted it and believed it to be correct.

Did any of your councillors report to you that they had either firsthand knowledge or reliable information that (10) people came from outside in buses? On the night before and the morning of the unrests? My Lord I am going to ask Your Lordship to accept provisionally that that it was because I have seen elsewhere that the reporter uses the plural of unrests as Your Lordship will see in paragraph 6.

COURT: Well I cannot see how the word there can be superimposed on anything else there. Who typed that in?

MR. BIZOS: The "there" does not belong there.

COURT: Well it is there, to use a pun.

MR. BIZOS: As Your Lordship pleases. (10)

COURT: I am afraid we will have to see the original of this document.

MR. BIZOS: As Your Lordship pleases. But may I just, did you have information from your councillors that they themselves saw buses of outsiders coming the night before and some time, some other time? -- That is what they told me My Lord.

Right. Which councillors told you that? -- M.M. Mkiwane is one of them.

Yes, who else? -- Piet Mokoena.

Yes? -- Only those two told me. (10)

They are senior councillors, if I am not mistaken they have/.....

have both given evidence in this case.

COURT: I do not think we had Mr Mkiwane. Mr Mokoena we had.

MR BIZOS: My Lord is that not, how do you spell the other name, not M-g-i- ...

COURT: You are thinking of Mgcina.

MR BIZOS: Oh is that, I am confusing it with that, I am sorry. -- I am talking about Mkiwane.

Alright, only Mr Mokoena. Tell me did anyone see whose buses they were, what registration number there was? This must have been absolutely vital evidence to trace the people (10) responsible for this unrest? -- No.

Well you no doubt were in touch with the police right from the morning of 3 September up to the time that you emerged, according to this report, on 19 September? -- That is true.

And did you report this information to the police? That two of your councillors had reliable information that buses with strangers came in? -- No that is before they told me about this. On the 3rd I was not yet told about this information.

But you must have been told some time between the 3rd and the 19th of September? -- That is true. (20)

Yes. Did you report that information to the police whilst it was freshly in your mind brought to you by two reputable councillors, so that the police can investigate this matter as soon as possible to get to the bottom of this? -- If I remember well I told them.

Yes. To which policeman did you say this? -- I cannot remember to which one.

Yes. Now like most politicians, I am going to suggest to you, you claim a mandate from the people as a whole. -- Yes by voting for my elections they have given me the mandate. (30)

Because you see this business of buses from outside was mentioned/.....

mentioned by you at a time before 3 September was it not? --
You mean that I said something about the people who were there
in buses on 3 September, prior to the date of the 3rd?

No you mentioned buses from outside prior to 3 September.

COURT: Yes, in what context of Mr Bizos?

MR BIZOS: Of people coming in from outside into Lekoa in
buses.

COURT: Well that is normal is it not?

MR BIZOS: As Your Lordship pleases.

COURT: There is a bus service. (10)

MR BIZOS: Do you recall that you were one of the members of
the posse of councillors that went to the house of Father
Moselane, accused no. 3, at the end of August? -- I have been
to his residence on many occasions in the company of other
councillors. Unless you remind me of a specific date?

End of August, please let us get on.

COURT: Well let us put the thing more clearly Mr Bizos. Why
should we run around in circles. On the night of 29 August
1984, after the meeting in Boiphatong had been broken up a
number of councillors went to the house of accused no. 3. (20)
Were you one of them? -- No that day, after that meeting I
went home.

MR BIZOS: My Lord there is a dispute about the date, that is
why I put it the end of August.

COURT: But is it not the meeting, just after that meeting?

MR BIZOS: No My Lord, on no. 3's version it was on the 28th.
That is why I put it the end of August, but let us try and
take it from the witness.

COURT: I see, yes.

MR BIZOS: Did you go four or five days before 3 September (30)
did you with a number of other councillors go to the home of
accused/.....

accused no. 3? -- That is true.

Yes. Was it for the purposes of intimidating him as one of your fellow councillors has already told His Lordship? -- I do not know what the other councillors said in evidence but what I can tell the Court is this day when we went to Bophelong we were told that the people who were there had now dispersed. Then it was decided there that we proceed to accused no. 3's residence, that is Moselane's residence. What I mean is a decision had already been taken on my arrival there because I came late. (19)

COURT: Yes, the question is whether you went to his house to intimidate him? -- No.

MR BIZOS: Well was there any reason for any one of the councillors there present should dissociate himself with the behaviour of Mr Mpondo, yours and the other councillors as a result

COURT: Now just a moment Mr Bizos. The previous witness to whom you no doubt refer spoke of a meeting that occurred after the breaking up of the meeting in that hall, and this is not the same occasion, this is the previous night. (20)

MR BIZOS: No My Lord, with respect, we submit that there was only one meeting.

COURT: May well be, I do not know, but you cannot cross-examine this witness on what happened on the 28th on the evidence of somebody who gave evidence as to the happenings on the 29th.

MR BIZOS: No My Lord, but he may have been incorrect about the date and correct about the other matters if there was only one meeting.

COURT: He may be incorrect as to the date but he may also (30) be correct but you cannot put it to him that the witness said that/.....

that on the 28th this and this happened when he said it happened on the 29th.

MR BIZOS: No My Lord, let me try it in another way without reference to the date.

COURT: Yes.

MR BIZOS: Did you go to the home of accused no. 3 on more than one occasion at the end of August in the company of Mr Mpondo and approximately twenty other councillors? -- I have never been in the company of Mpondo going to accused no. 3's residence. (10)

How many people were with you when you went to the accused's residence? -- I cannot remember, we were driving in cars.

How many cars? -- I only remember my cars and other cars, approximately five other cars.

Five other cars full of councillors? -- Not full.

Right. How many councillors were there? -- I cannot quite remember, as I said I arrived there a bit late, there was no time for me to count them.

Would you agree that there were almost twenty people (20) who went with you to accused no. 3's house? -- It can be, if it is persons it can be about twenty persons, but not councillors.

How many of the twenty persons were councillors? -- About five.

Five. Who were they? -- I am not your investigating officer, because I believe accused no. 3 must tell you who were they then you know who they are.

COURT: Yes, no the question is put to you and not to accused no. 3. Will you now answer the question if you remember? (30) -- Yes I will. Myself, Jokozela, who was just next to me, Paul/....

Paul Mahlatsi, Shali, those are the people I remember.

COURT: Is no. 19 back in court?

MR BIZOS: Yes My Lord he has just arrived.

COURT: Yes, that is recorded.

MR BIZOS: Now had you been to accused no. 3's house in the company of Mr Jokozela on more than one occasion or only on one occasion in the last week of August 1984? -- He was not in my company on previous occasions. In fact each time we went there there was nobody home.

I see. So the only occasion on which you saw accused (10) no. 3 in the last week of August 1984 was in the presence of Mr Jokozela your councillor? -- That is the day we went there in a big number.

Yes. Is that after you had a meeting in the veld, where you stopped your cars and had a meeting in the veld and then decided to go to accused no. 3's house? -- I have already said that on my arrival there a decision was already taken by the people.

COURT: But where did you arrive when you found that they had already decided something? -- I explained in my evidence-in-chief that we had been to Bophelong twice. The first occasion we had been there was on the 27th when I said on arrival there we found that the people who had been waiting for us at that communal hall had left. That is the day then when we decided that the preparations must be made for the meeting of the 29th. That is the day when I came there and found that a decision has already been taken that from where we are now we are getting to Moselane's residence.

And where you were then was in front of the community hall where the people who had asked you to come were no longer (30) there? -- Outside the township. At the entrance.

MR BIZOS: /.....

MR BIZOS: Can you recall whether Councillor Mphulenyane, I am sorry if I do not pronounce it properly but I will spell it, M-p-h-u-l-e-n-y-a-n-e, was there or not in the group that went to visit accused no. 3 which you were there and Mr Thokosela was there, was Mr Mphulenyane present?

COURT: Is it Mphulenyane, could you just spell it again?

MR BIZOS: M-p-h-u-l-e-n-y-a-n-e.

COURT: Yes, Mphulenyane.

MR BIZOS: Was he there? -- I cannot recall, it is possible that he was there. (10)

Mr Caesar Motjeane? -- Well as far as I remember it is possible that he was also there.

And Mr E.C. Mahlatsi is yourself? -- I have already said that I was there.

And Shale, S-h-a-l-e? -- I remember Shale, he was there, I have already said Shale was there.

And Mpondo? -- I cannot remember him being present there.

COURT: Does that mean that he was not there? -- I cannot remember seeing him.

MR BIZOS: Yes, but are you in a position to deny he was there? -- I cannot. (20)

Alright. Now do you agree that however many councillors may or may not have been there there was a group of over twenty people that went to Father Moselane's house? -- I have already said that it is possible that the people were twenty.

Right, what, who were the other dozen people that were there who may not have been councillors? Who were they and why did they accompany you? -- I said I do not know because I did not even know the reason why we had to go to accused no. 3's residence. (30)

Surely the Mayor of Lekoa does not go somewhere without knowing/.....

knowing why he is going somewhere? -- Well I went there.

Just went. Who was the leader of the group, who was the pathfinder, who was the man who was leading the group? --

Jokozela is the person who told me that a decision has been taken that we go there.

Oh. Did he say why, did you ask him why, "Jokozela what business have we got there"? -- I did but in reply to that he just said "Let us go because these people are already starting their cars to move".

I see. But you know that made it even more strange, (10) that he was not prepared to give you a reason? You are not the sort of person who would allow people to evade your questions? -- I am telling about what happened there.

How many people were in your car? -- I was alone in my car.

Whose car were you following? -- Jokozela's car.

Are you going to tell His Lordship that this idea of going to accused no. 3 was Mr Jokozela's? -- No that is not what I am saying.

I see. Whose idea was it as far as you know, as far (20) as you know or as far as you found out? -- No I do not know. As I say on arrival there a decision was made already.

Very well. Do you agree that when you went to the house of accused no. 3 on this night which you were in the company of Mr Jokozela and others accused no. 3, Father Moselane, was not present when you got there in the first instance? -- If I remember well he was not there.

And did you receive a report from Mother Moselane, or anyone else, that he was expected fairly soon? -- Yes that is how I remember it. (30)

And did you and your group wait for him to arrive? --

I/.....

I do not know why you put it this way, that me and my group, instead of saying the group and myself.

Please yourself. Please yourself, whether a group that you were in waited for accused no. 3 to come? -- I prefer to say the group and myself waited.

Waited, yes. For how long did you wait more or less? -- I cannot remember.

Well would you not like to give us an idea whether it was five, ten, fifteen minutes? -- I am not going to pin myself down on time. All I can say at the end accused no. 3 (10) arrived.

Yes. Whilst you were waiting for accused no. 3 did you get out of your car? -- No I did not.

Did anyone come to your car? -- No.

Well how did you hear that he was soon expected? -- That is at the time when we were in the house that I came to know about that.

Oh I see you went to the house, so you actually had firsthand report from Mother Moselane that Father Moselane was not there? -- No. When we went into that house we went in (20) at the same time.

Oh, are you saying that you actually waited in the house for Father Moselane? -- If I still remember well we waited in the house for his arrival.

I see. Yes. And whilst you were in the house did you ask the people that you were with, as you will have it, "What did we come here for, after all I am the Mayor"? -- No I did not go there because I was the Mayor.

Well what did you go there for? -- It is because I wanted to see, I was curious to see what is going to happen there. (30)

I see. Well what did you tell Mother Moselane, what was the/.....

the purpose of this delegation?

COURT: Was it a delegation?

MR. BIZOS: Well this group. -- The speaker there only enquired about the presence of Reverend Moselane.

Did you not tell Mother Moselane what it was that you wanted to see her husband about? -- No. I did not hear that being said by any one of the group.

Now when he arrived who spoke? -- If I remember well there were two speakers from the group, namely Jokozela and Paul.

Right, please tell us whether the purpose of your (10) coming became apparent as a result of what one or the other of them said? What was the purpose for your going? -- Yes I was able to ascertain the purpose of having been there.

Yes, what was asked? -- If I still remember well the speaker there said they are having very bad feelings or feeling very bad about what Reverend Moselane is doing in Sharpeville, and further said, it was further said that they did not know whether he was not aware that he was putting people's lives in danger. The speaker at the time there I would describe as was addressing in a way of indicating that he (20) was dissatisfied as a result of which, according to the description in Sotho, was aggressive.

Who was this person who was being aggressive?

INTERPRETER: If I may just ascertain from the witness. He says aggressive is not appropriate.

COURT: Shall we try the word "agitated". -- It is correct agitated, but the word used prior to that had a different meaning altogether.

MR. BIZOS: Yes. Did anyone abuse Father Moselane or Mother Moselane? -- No I cannot remember that. (30)

Were there Municipal policemen present either in the house/.....

house or outside the house? -- No I did not see them.

If Mr Jokozela told His Lordship that Father and Mother Moselane were being abused by this group of persons and that no opportunity was being given to Father Moselane to speak would that description be incorrect? -- I will say he is making a mistake.

Making a mistake. For Your Lordship's convenience, and the Learned Assessors may I mention that Your Lordship will find this evidence at page 2438.

COURT: Volume?

(10)

MR BIZOS: To page 2444. Volume 49.

COURT: Thank you.

MR BIZOS: Now you see it got so bad that according to Mr Jokozela out of respect for Father Moselane withdrew from the scene where he and Mother Moselane were being abused. What do you say to that? -- No I cannot remember him doing that.

Yes. Do you recall whether anyone threatened Father Moselane with anything? -- I cannot recall. Well all I can say is if we were talking with voices and appear to be taken up and agitated, I do not know whether that could have been threatening to Father Moselane. (20)

Now do you recall that Mr, whether Mr Mpondo or anyone else told Father Moselane that he had the power to detain him? -- No.

Are you saying that it did not happen or that you cannot remember whether it happened or not? -- It did not happen.

Well, and if one of your fellow councillors, Mr Jokozela, told His Lordship at page 2442 that he heard Father Moselane say that if that was his power then he had better do it, or words to that effect. -- No. (30)

Do you not recall that it was you who put to him, or whether/....

whether anyone else put to him

COURT: Now wait a moment. Are you putting it that the witness put it or that somebody else put it?

MR BIZOS: What I am about to put is in relation to this witness, that it was you who put to Father Moselane that you had information, according to your information that he was going to bring busloads of people from Parys or Kroonstad? -- I never uttered a word there.

Well did you try and stop anyone from using inappropriate language to Father Moselane? -- I have already said that (10) I did not hear anybody using inappropriate language.

Well Mr Jokozela, one of your councillors, told His Lordship that he heard people threatening to assault Father Moselane. -- Who threatened?

That persons there present threatened to assault Father Moselane. Your Lordship will find that at page 2443 and 2444. -- No. I do not agree with that.

Did you hear anyone threatening Father Moselane with war, with war? -- No.

That is also on page 2444. For how long were you and (20) the other members of the group in Father Moselane's house? -- I cannot remember.

More or less? -- According to my judgment it was not long, approximately fifteen minutes.

Yes. Well what purpose would you say had been achieved by this group having visited Father Moselane?

COURT: Well before that is put to the witness what was the purpose of the visit as you saw it in retrospect? -- According to my assessment of what was happening there it appeared to me that it was just that these people wanted to cough out (30) their feelings about what was happening.

MR BIZOS:/.....

MR EIZOS: What was in fact happening was that there were public meetings at which even security policemen were present, at Father Moselane's church? Not so? That was public knowledge, it was in the newspapers, there were newspaper reporters, policemen, members of the public? -- I do not know because I never attended some of those meetings before.

No but surely as the first citizen of Lekoa if you heard that there were public meetings on a Sunday did you not expect to see reports about them either on the Monday or the Tuesday morning in The Sowetan or The Star, in the Rand Daily Mail (10) Extra? Many of them have been proved in evidence in this court. -- That is true, I did see articles about the meetings in the papers.

Yes. So there was no secret about the meetings that were taking place at Father Moselane's church? -- That is true.

Yes. Is not the position this Mr Mahlatsi that you and your fellow councillors resented the fact that meetings were being held in relation to the increase of rentals? Not so? -- No.

Did you not resent the fact that anti-rent hike meetings were being held? -- Which I did not like here about these meetings were the reports in the newspapers about what was being said in those reports themselves.

Yes, that the councillors were being accused of not having the interests of the public at heart and that they had agreed to the increase of the rental? Not so? -- That one I see but this is the major one, wherein they said in that report that the rent increases are being used to put up structures or businesses for councillors.

Yes, they said that yes. Yes, and judging by your failure to increase the rental on business premises they may even/.....

ever have been one hundred percent correct. Is that what you resented? -- That is not what I am resenting.

Well that is what you told us you resented, you resented that they said that the rental is going to be increased in order to make provision for business premises for the benefit of the councillors? -- The impression created to the public was that the increase on rentals was meant for councillors to be able to put up their own businesses which will be run by them as personal properties.

Yes. There were meetings at which people were expressing their opinions? -- The particular report I am talking about which I read in a newspaper was quoting accused no. 3 having told the public meeting that.

Was this before or after the meeting at which you tried to persuade the clergy to co-operate with your Council that you saw this report? -- If I remember well it was before.

You read this report before? -- That is if I remember well.

Yes, we will check on it because I think that we already have that report. (20)

COURT: It is before Court as one of the exhibits.

MR BIZOS: As Your Lordship pleases. We will identify it during the adjournment. But now do you recall, do you recall whether at the meeting of the clergy you tried to persuade the clergymen there present that they must not concern themselves with matters which were properly within the jurisdiction of the Town Council? -- I have given three reasons as to why we met with the clergymen.

No please if you have given them they are on record. Answer my question. Did you tell the clergymen that they should not concern themselves with matters which are appropriate (30)

to/.....

to the Council? -- No I cannot remember, I never uttered those words.

I see. Well because I am going to put to you that what you really resented was that any meetings at all were held of which, at which you and your Council were criticised, both as a Council and as individuals? That is what you resented.

COURT: Criticised fairly or unfairly?

MR BIZOS: We say fairly My Lord, truthfully.

COURT: No but then that is a different matter. The question is whether he resented the fact that meetings were held (10) at which criticism was levelled or whether he resented the fact that meetings were held at which unfair criticism was levelled. The way you phrased the question is open both ways.

MR BIZOS: As Your Lordship pleases. Then I suppose there may be differences of opinion as to what is fair criticism and what is not. But I

COURT: It is up to you to rephrase it, it is not up to me.

MR BIZOS: As Your Lordship pleases, I will try. Did you consider the question of the raising of the rental and the morality of the councillors matters which should be dis- (20) cussed in a church such as accused no. 3's? Did you consider that proper behaviour? -- I have no objection of those issues being discussed anywhere. I am not scared of any criticism:

I see. -- As long as I am not being misquoted.

Yes. Well if you are misquoted to your disadvantage there are courts, if you are defamed, I take it? You had the right to reply to the numerous newspaper reporters that apparently visited you? -- That is true.

Yes, because I am going to put to you in relation to this that you tried to persuade accused no. 3 and the other (30) clergymen earlier in August not to use your word "interfere"

in/.....

in Council affairs? Do you agree with that? -- No.

Yes. And that did not go so well because accused no. 3, Father Moselane, and other clergymen said that they could not exercise their priestly duties properly by not concerning themselves with the problems of the people? -- I have already explained what happened in our meeting with the clergymen.

Do you admit or deny that at the meeting clergymen, including accused no. 3, told you that they had, that they disagreed with you as to what was the proper exercise of their functions? -- No our meeting was in order, was kept in good order until we dispersed.

COURT: Mr Bizos could you put to the witness apart from accused no. 3 which other clergymen disagreed with the view that clergymen should not meddle in politics.

MR BIZOS: I will have to get an instruction, I confine myself to accused no. 3.

COURT: Yes well we will do that after the luncheon adjournment.

COURT ADJOURNS UNTIL 14h00.

C194

COURT RESUMES AT 14h00.

(23)

ESAU CHAKE MAHLATSI: d.s.s. (Through Interpreter)

FURTHER CROSS-EXAMINATION BY MR BIZOS: Now I am going to put to you that at the meeting of 16 August, that is the meeting of the clergymen of the 16 August at Sharpeville, Father Moselane and Reverend, I will spell it My Lord, Malumbaza, M-a-l-u-m-b-a-z-a, of the Prestbyterian Church of Africa in Sharpeville and the Reverend Molobatsi of the Baptist Church and others took up issue with you about your attitude to the use of church buildings for gatherings of people to object to the increase in the rents and the behaviour of councillors? What do you say to that? -- No rent issue was mentioned in

that/....

that meeting.

Well do you say that you did not raise any objection to the church premises being used for what you considered secular purposes? -- I did mention that but I did not refer to anything pertaining to rent.

Was not the increase in rent a particularly important secular issue on 16 August 1984 in Sharpeville? -- In these meetings rent was being discussed.

Was that not one of the secular matters that you did not want discussed by priests and at churches? -- No that was (10) not.

Were you happy that the churches should be used for the purposes of discussing the rent increase? -- It was not churches but a church in which meetings were held discussing the rent issue.

Were you happy about that? -- I have already said I was not against it nor was I against any criticism which was fair.

I see. Were you party to any letters written to churches before 16 August threatening to cancel the leases of churches if politics were discussed in the church buildings? -- No. (20)

Did you know that the Council had threatened any churches to cancel their leases? -- No.

When did you hear for the first time, if ever, that your Council had sent letters to the churches, more particularly the Anglican and the Catholic Churches, threatening them with cancellation of the leases? -- My Council never sent such notices.

Do you know whether any of the officials sent notices to this effect? -- No.

What would have been your attitude as Mayor and as (30) leader of the Council if such letters were written by the officials?/.....

officials? -- I was going to investigate that.

Do you recall that there was also a meeting with church leaders on the 17th at Sebokeng? -- That is true.

Do you recall whether you were questioned about your Council's attitude to the letters written to the Catholic Church about the use of church premises for what you considered to be political matters? -- No.

You see I am going to put to you that your evidence-in-chief that there were two cordial meetings with church leaders on the 16th and 17th is not in accordance with the truth. (10) Let us just start with the meeting of the 16th. Do you recall that the ladies and gentlemen of the press had turned up for this meeting between you, your, certain of your councillors and the church leaders? -- I was aware of their presence.

Right. Did you give an order that they should be excluded from the meeting? -- That is true.

Do you recall that Father Moselane, accused no. 3, said "Oh no, we have nothing to hide, these people must come in and listen"? -- The decision at the end was that they will be informed about what has been decided in this meeting. (20)

No, just answer the question please. -- Just repeat that question.

Did Father Moselane object to your ruling that the press should be excluded, saying that "We have nothing to hide, we are going to discuss the public's business. Let us do it in the presence of the people that inform the public"? -- I remember him saying that.

So already there was a disagreement right at the beginning, even before you got down to any business? -- I have already said that the decision there was that they would be informed (30) later.

Yes/.....

Yes but there was disagreement? -- Yes but the thing is this, we did not go on that disagreement. What we did was we then settled it by saying they will be informed after the meeting.

You mean you ruled that way? -- No I did not rule that way.

COURT: Who decided this? -- It was per agreement of the people present there because I asked them what their feeling was about the presence of the press in this meeting because I for one did not invite them to be present in this meeting. (10)

MR BIZOS: Well but you had sent out notices and you know these people have a way of getting hold of information, especially if you send out notices? -- That is true, they have their own way of finding out certain things and at times we find that they are being informed by certain people.

Yes, and you object to that? -- No I am not objecting.

The second matter over which there was disagreement was, where is the agenda, what are we going to talk about? -- That I explained already in my evidence, that I came there with an open agenda. (20)

COURT: Counsel is putting to you that there was a disagreement about the absence of an agenda. -- There was no disagreement.

Was the matter raised? -- Well I explained it before at the beginning.

MR BIZOS: Why do you not answer the question which I am putting and which, with respect, His Lordship has put to you? -- Which are those questions that I did not answer.

Whether there was a disagreement continuing the meeting without an agenda, that Father Moselane wanted an agenda? (30)
-- No he did not raise an objection like that.

What/.....

What part did Mr Dlamini play in this meeting? -- He was the Chairman in this meeting.

Yes. But if he was the Chairman were you the main speaker? -- That is true.

Do you recall whether, after you made your main speech whether Father Moselane responded to your speech? -- Yes I do remember that slightly.

Yes. Let me tell you the gist of his speech. That whatever you or the Chairman may have regarded or meant by politics he as a priest regarded the quality or lack of quality(10) of life of his congregation and the people as a whole as a matter which concerned him as a priest, do you remember him saying that? -- No that is not what he said.

That is not what he said.

COURT: What did he say? -- He responded on one of the aspects I had mentioned, namely the goodwill, saying that they have their own way in which they are doing it in their church or within the congregation.

ASSESSOR (PROF. JOUBERT): Have the week of the goodwill, the goodwill week? -- What he said was, as pertaining to goodwill(20) and not week of the goodwill.

COURT: Yes but now that was accused no. 3? -- That is right.

MR BIZOS: Did accused no. 3 say that he considered it his right to speak out about the dissatisfaction in his congregation? -- No.

So he was completely agreeable and affable and co-operative with you as Mayor and Mr Dlamini as Chairman? Is that what your evidence is? -- Yes I would say so, except for the goodwill that he explained how they are doing it, that they are busy doing it in his church. (30)

So that he really said he had no objection whatsoever to/.....

to anything that you said but merely indicated that they were busy building up goodwill already? Is that what you say?
-- He said to me they are already busy doing that in their own way. That is referring to the goodwill in his congregation.

Do you recall Father Moselane saying that he was concerned with the plight of the poor? -- No I do not remember him saying that.

Do you recall him saying that when the Council wanted to use the Methodist Church for an election, for a Council election that that was fine and the Council did not con- (10)
sider that as politics? -- No he did not say that.

Your Lordship may want to make a note that for comparative purposes that I am making reference to Volume 50 page 2519 et seq of a previous witnesses's evidence in this regard. Do you recall Father Moselane saying that if his congregation and other people wanted to gather in his church in order to discuss the increase in rent he would allow it to happen whether it pleased the Council or not? -- No no such words were uttered.

Was one of the matters on the agenda as to whether (20)
political meetings should be held at the churches or not?
-- That is true, that was mentioned.

That was mentioned. And did accused no. 3 have a different interpretation of what politics was to you, or what was permissible politics to be discussed in a church and what was not? -- No he did not.

You see I am going to put to you also that the next day, that is on the 17th at Sebokeng.

COURT: 17 August 1984?

MR EIZOS: 1984, much the same was said, much was said, (30)
much the same was said by you and in fact you used a then
topical/.....

topical example. Your meeting in Seboken was being held in the Mhlalatsani Hall, was it not, in Zone 14. I will spell it My Lord, M-p-h-l-a-l-a-t-s-a-n-e, is that where it was being held? -- Yes it was held in Mphlalatsane Hall.

Right. And do you recall that you called on the clergy-men to enter into Mphlalatsane accord with you? -- That is true.

Yes. And that was a topical sort of example because the South African Government and the Mocambiquan Government were busy signing the Nkomati Accord? -- Yes that is true but (10) it was just a joke in passing.

I see. Well you know in order that jokes may be funny they must have some truth in them, otherwise they are irrelevant and everybody laughs. Not so? -- Not really. Because we were there just to be near each other, not necessarily signing anything to be binding between us.

I see. Well do you know Father Leonard? -- Who, Father Leonard?

Yes.

COURT: Leonard? (20)

MR BIZOS: Leonard, My Lord yes it is only a first name, a Catholic priest. -- I remember there was a Father there.

Yes, well perhaps you could look in court and tell us whether he is here then I will ask His Lordship leave to ask him to leave the court. Will you stand up Father Leonard. You remember Father Leonard at this meeting? -- If I remember well in that meeting it was said Father Vernon.

COURT: Berman? -- Vernon.

MR BIZOS: Yes well there may have been some confusion in the name or your recollection of it but was that the father (30) that was at that meeting? -- No I cannot recognise him.

Yes./.....

Yes, there may be some dispute, if I could ask Father Leonard to leave the court just in case.

COURT: Well let the gentleman come forward first that I can note his names.

MR BIZOS: As Your Lordship pleases.

COURT: What are your full names?

FATHER LENNAN: Edward Lennen, it is not Leonard, it is Lennen.

COURT: Lennen?

FATHER LENNAN: L-e-n-n-o-n. (10)

MR BIZOS: Well the witness was right and I was wrong, I am sorry Father.

COURT: Yes thank you, will you leave the court please.

Now having had a close look at this person was he at the meeting or not? -- If I look at him now from close it would appear to me as if he was there, looking at him from close it appears to me as if he was there, though the clothing he was not clad in this fashion.

Camouflage. Yes?

MR BIZOS: Was he wearing a cassock when he came there? (20)

-- He had some purplish in colour.

Yes. Now you know you added a bit in your evidence a short while ago that there was only one church that was being used for political meetings? That is not quite correct is it because you knew that the Catholic Church in Zone 12 was being used for meetings? And the hall that had been a church before the new church was built at Catholic Small Farms, Catholic Church, Small Farms was also being used for this purpose? -- When I said I was referring to only one church I was talking about the churches in Sharpeville. From the (30) churches or the clergymen who were invited to this meeting I

was/.....

was referring to one church in respect of those who attended.

COURT: Which church was that? -- Anglican.

Is that the church of accused no. 3? -- That is true.

MR BIZOS: Do you recall that Father Lennon, the priest that has just left the court, whether he asked you any questions or made any statements in relation to the threats to cancel the leases because people were holding meetings in the churches -- No he did not say anything.

Did not say anything? -- No.

Did not ask any questions? -- If I remember well he (10) even left before the meeting was closed. I think himself and one Nkwena(?), left before the meeting was closed.

COURT: One who, Nkwena? -- Nkwe.

Nkwe. -- It is Linkwe.

Linkwe? -- Yes My Lord.

MR BIZOS: Now if I were to put to you that he put questions to you which indicated, which indicated that although goodwill would have been very well received it could not be goodwill on your terms. -- No he did not say anything about that.

And that he asked you whether you took responsibility (20) or not for the threat to cancel the church's leases in Lekoa for allowing church property to be used for people to discuss their grievances? -- No.

Yes. And that you evaded the questions by not giving any answer? -- Because there was no such a question there for there could not have been any answer to a question which was not existing.

Yes I am sure, if your evidence is correct that would follow but I am suggesting to you that your evidence is not correct. Tell me when did you receive EXHIBIT AAT(16)? (30)

COURT: This is the Memorandum by church leaders in the Vaal Triangle./....

Triangle.

MR BIZOS: That is so My Lord. -- Some few days after I had a meeting with them, four to five days thereafter.

Yes. Can you recall of whether Dominees Z. Mokgoebo, M-o-k-g-o-e-b-o, from the Dutch Reform Church in Bophelong and Dominee Khoaho, K-h-o-a-h-o, of the Dutch Reform Church Sebokeng were at one or other or both of these meetings? -- I cannot remember them being present at any meeting.

If your evidence is correct the contents of this AAT(16) must have come as a complete shock to you? -- It is true, (10) I was surprised by this.

Was publicity given to the contents of AAT(16)? -- Publicity by whom?

In the newspapers? -- I cannot think of a newspaper or remember any newspaper which gave publicity to the contents of this.

My Lord does my memory serve me correctly that the contents has been read into the record?

COURT: No the contents was not, I am not sure. I read it but I (20)

MR BIZOS: Yes the witness read it, My Learned Friend Mr Hanekom reminds me.

COURT: Yes.

MR BIZOS: Now do you agree that if these clergymen kept quiet at this meeting and agreed with you that their memorandum is quite different? -- That is true.

Yes. Did you go to any of the church leaders present at one or or other or both of the meetings and say "But why do you keep absolutely quiet when we are face to face and then as soon as my back is turned you go and write me a long (30) memorandum which is quite different"? -- I have not met one of/.....

of them, although of course I will tell you this is one of the reasons why I had been to accused no. 3's residence, Moselane, on many occasions and each time when I was there he was not home. I remember I even sent the Township Manager of Sharpeville requesting him to make an appointment for me with accused no. 3, either him accused no. 3 to come and see me in my office or if not I will be prepared to come and meeting him at his residence, that is accused no. 3.

COURT: Now EXHIBIT AAT(16) is not signed by anybody and no names appear on it. What made you suspect that it (10) emanated from accused no. 3? -- The reason is after our meeting in Sharpeville he called all the clergymen together. I then thought perhaps he might know better about this with reference to the EXHIBIT AAT(16).

MR BIZOS: Well if you had so much difficult to find accused no. 3 to ask him about it why did you not ask one of the many others that were present to whom you might have had easier access? -- Well it is because I did not take it to be so urgent that I can go to someone else. I just said to myself I will hang on until one day we meet, then I will talk to (20) him about it.

You do not by any chance suggest that one of the reasons why you went to the home of accused no. 3 with some twenty other people was to discuss this memorandum? -- No.

You see because I am going to put to you that you wanted to bully the churches into not allowing people to discuss their grievances at their premises. -- No, in reply to that I will say in fact the holding of those meetings we took as one of the procedures which is being followed by the community in order to make known their differences or grievances (30) pertaining to the notice which was published that people can

object/.....

object to certain things.

Oh so you welcomed the anti-rent hike meetings in church halls and buildings? -- No not that I was in fact accepting the anti-rent hike meetings. What I am saying is what occurred in my mind was the meetings were being held with the view of finding a procedure as to how to go about lodging an objection pertaining to whatever one wants to object about.

Tell me, was not your visit to accused no. 3's house on the 28th in order to threaten him with detention?

COURT: On the 28th or 27th? (10)

MR BIZOS: 28th My Lord. The dispute was whether it was the 28th or the 29th. The witness and no. 3 agree that it was the 28th.

MNR JACOBS: Die getuie het gesê dit is die aand, dieselfde aand toe hulle die mense sou ontmoet het en dan die volgende dag sou die,...

HOF: Dit is die 27ste, 27th.

MR BIZOS: Was that the 27th My Lord? Well at any rate when you did go to his house. -- No.

Yes, and did you know that in fact (20)

COURT: What is the answer, no to what? Was the visit to no. 3's house?

MR BIZOS: For the purpose of threatening him with detention and other discomforts if he did not stop using the church. -- No.

Did you know that before 3 September that there was in fact an attack on Father Moselane's, accused no. 3's, home? -- I read about it in the newspapers.

Yes. Was that shortly after this visit by you and twenty odd others? -- I cannot quite remember but I do remember (30) reading about that, that is the attack on accused no. 3's house./.....

house.

Yes. And that you see this meeting, this meeting at the end of August I am going to suggest to you was for the purpose of intimidating him. -- No.

Would you, I am going to another topic My Lord, I am happy to go on if Your Lordship pleases.

COURT: No it is not necessary Mr Bizos, I would like to take the adjournment now.

COURT ADJOURNS UNTIL 15 APRIL 1986.

DELMAS TREASON TRIAL 1985-1989

PUBLISHER:

Publisher:- Historical Papers, The University of the Witwatersrand

Location:- Johannesburg

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DOCUMENT DETAILS:

Document ID:- AK2117-I1-9-62

Document Title:- Vol 62 p 3223-3287. Witness: Malatsi