

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA

(TRANSVAALSE PROVINSIALE AFDELING)

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SAAKNOMMER: CC 482/85

DELMAS

1986-02-19

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

26

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 26

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COURT RESUMES ON 19 FEBRUARY 1986.

THULO RONALD KOAHO: d.s.s. (Through Interpreter)

MR BIZOS: I would like to inform Your Lordship that due to the good offices of the District Surgeon the accused Mohapi Lazarus More, accused no. 4, and Naphtali Mbuti Nkopane, accused no. 8, have been or are about to be admitted to a hospital where operations are to be performed on them. They could not have been delayed any longer and we submit, with respect, that the provisions of Section 159 should be invoked and the trial should continue. We want to assure Your Lordship that we have instructions from them and that they will not be prejudiced in any way if the trial continues in their absence. May I inform Your Lordship further that accused no. 17, Mr Matlole, is still in hospital. (10)

HOF: Wat is u houding mnr Hanekom?

MR HANEKOM: Ons het geen beswaar nie Edede.

COURT: Yes, it is recorded that accused no. 17 is still absent and that the previous order in respect of him stands and in respect of accused no. 4 and no. 8 a similar order is made in terms of Section 159(2)(a)(i) of the Criminal Procedure Act. (20)

FURTHER CROSS-EXAMINATION BY MR BIZOS: Sergeant I want you to please listen carefully to what the evidence will be accused no. 16 said further. Do you recall him saying that a nation enjoying a reasonable standard of living

COURT: Excuse me, what is the question, a nation?

MR BIZOS: A nation enjoying a reasonable ...

COURT: Will, will enjoy?

MR BIZOS: No enjoying a reasonable standard of living needs no guns or armies for its protection? ... No I cannot recall that. (30)

Yes. Does that mean that, let me tell you what else he said in this context and you might remember. And he referred to the hefty State budget for military purposes. -- No I cannot recall that.

Well is it, are you saying that he did not say it or you cannot recall whether he said it or not? -- What I mean is I cannot recall whether he said it.

Yes, but you cannot deny that he might have said it?

-- Yes.

Now I want to remind you about something else that he (10) said, and that is about the problem of controlling children, that the parents faced a terrible dilemma because they could not really discharge their proper office of parenthood. Listen to the other part and you perhaps will remember it. That a parent who cannot clothe or house or feed his children can hardly impose his will on his children as to how they should behave. You recall that? -- Yes I recall that.

You recall that. I do not want to take up too much time. He gave an example of what the ideal situation would be, that parents are there to help their children not only with (20) their needs, but to help them with their homework and their schoolwork and to be with them in order to teach them proper moral standards. -- That is so.

And that it was no good looking elsewhere for the school boycotts that were taking place but that they were really rooted in the poverty and the unsettled condition in which their parents lived. -- That I cannot remember.

Yes. But you cannot deny that it was said? -- That is so.

But that he appealed to the parents that despite those difficulties it was nevertheless their duty to get together (30) and discuss the problem for their sakes and the sake of their children./.....

children. -- No that I cannot remember.

But you cannot deny that it was said? -- That is so.

Yes. And did he have a message of hope for the people? Did he say that doing nothing is not going to help anybody?

-- That is so.

And you have already, I have already put to you about the charitable organisations, I do not want to repeat that. You recall that? But did he go further than the charitable organisations? -- No I cannot remember.

Yes. That they should go to their employers and (10) persuade them that if there were requests for automatic deductions for the increased rent from their salaries that this was illegal and immoral for them to do it. -- That is so.

And do you recall that he actually described the stop order system against the will of the employee was something that was resented by the community? -- That is so.

Yes. Did he express the concern of his own organisation, the South African Council of Churches, about the unemployed and the unemployable? -- No I cannot remember.

But you are unable to deny that he said it? -- That is (20) so.

You see I am going to put to you sergeant that in fact that this speech taken as a whole was a speech touching upon the very problems of the people present. Would you agree with that? -- That is so.

Was it not clear to you by his references to the hope and faith that he was expressing and calling upon the people to have that if there was anything that was guiding him were Christian principles? -- No.

Well, you see that is where I am going to put to you (30) that the content of your speech that you admitted, or were unable/.....

unable to deny has a general tenor, has a general tenor of peaceful self help, self improvement, Christian reconciliation?
-- No.

I suppose you would regard a call of "Amandla" or "Matla" as completely inconsistent with Christian principles? -- That is so.

Is that why you say it was not in the spirit in which I have suggested to you? -- That is so.

Is that because you viewed it from the perspective of a sergeant in the security police? And not in its true (10) meaning? -- No, that is not so.

Does it, has not the call of "Amandla" and "Matla" really have come to be a symbol of the unity of the Black people? -- No I do not understand that question, I am not clear on that question.

Do not Black people call for "Amandla" or "Matla" whenever they are gathered and they are dealing with political or community situations or social difficulties that they find themselves in? -- When they are discussing politics they do use them. (20)

Would you consider the raising of the rental and the objections of the people to paying it on the ground that they say that they cannot understand it a political issue? -- That is so.

Yes. You see I want to test your version against some of the happenings there. Was the call to violence uttered, according to your evidence, by accused no. 16 translated by the interpreter? -- There was an interpreter.

That was not the question. Was the call to violence translated by the interpreter? -- I understood what accused (30) no 16 was saying from the language he was speaking.

I will repeat the question. Was the call to violence translated by the interpreter? -- What I am saying is I understand the language which was spoken by the accused and therefore I did not need any services of the interpreter.

That is not the answer to the question. I will repeat it. Was the call to violence interpreted by the interpreter? -- That is so. There was an interpreter who was interpreting.

Did he interpret the call to violence? -- As I say I could understand the language in which accused no. 16 was speaking and therefore I did not need that it be interpreted to me, therefore I could not tell whether he was interpreting or not. (10)

I see. Were you not sufficiently shocked by these evil and ugly words to look as to what the reaction on accused no. 16's statement was, for a start, on the interpreter that was standing next to him? How did the interpreter react to these words? -- As I have already said I was listening direct from what he says through his mouth. Therefore I was not paying any attention to the interpreter.

But you were there as a sergeant, trained in observation. Did you not realise that if the interpreter translated those words into another language he was really helping accused no. 16 to spread those words and that he himself was a person that had to be reported on for translating such ugly and evil words? -- I did not find it necessary. (20)

But did you not think that either for the report to your superiors or for the possibility of giving evidence or for further investigation that you should at least make some meaningful enquiry, who is this interpreter who is inciting the crowd in this way? -- I did not find that necessary. (30)

You cannot give us the name and you cannot give us any description, /.....

description, nor in any, you were not in a position to really carry out your investigative role. -- This happened long ago. I am therefore not in a position to give a description of the person who was interpreting.

Did you expect, when you heard the words, calling for violence from accused no. 16, that sooner or later you may have to give evidence about this important speech that you had heard? -- No I never thought about that.

It never occurred to you that you might have to give evidence? -- No. (10)

Is His Lordship to infer from your evidence that it is, that a sergeant in the security police listens to a speech where incitement to murder and incitement to do malicious injury to property and incitement to arson is uttered in plain words and the sergeant does not expect to give evidence? -- That came only after the incidents which took place in Sharpeville and Sebokeng.

The question of evidence was only raised in October? -- That is so.

Yes. Now tell me was Father Moselane, accused no. 3, (20) next to accused no. 16 when he uttered these words of incitement? -- That is so.

How did he react ... -- They were standing in front.

Standing or sitting, accused no. 3? -- They were standing.

Was accused no. 3 standing whilst accused no. 16 was speaking? -- Not all the time. At some stage he was standing and then he would sit down and again stand up.

So you remember that you had him under observation and he was standing up when these words of incitement were uttered? -- That is so. (30)

How did he react to those words? -- When the audience shouted/....

shouted "Amandla" he also...

INTERPRETER: My Lord I was interrupted by the witness. When the audience shouted "Amandla" he also shouted "Amandla" with the sign and then he adds they shouted "Amandla - Awetu" with the sign of a clenched fist.

MR BIZOS: So is your evidence then that when accused no. 3 heard these words he approved of them with this sign? -- That is so.

Oh. And so did everyone else there? -- That is so.

There was not one single person in that audience hearing (10) those words who raised any objection? -- I did not see anybody objecting to those words.

You yourself also? You yourself stood up and shouted "Amandla Awetu" as soon as these words of incitement were uttered? -- That is so.

And Letsele? -- Yes.

And your third companion? -- That is so.

There was not a single person who found it incongruous to applaud those words with the Christian ceremony that had taken place almost immediately before? -- Not that I saw. (20)

Yes. And having applauded those words, having applauded those words if they sang Nkosi Sikelele e Africa they were adding hypocrisy upon hypocrisy? -- When they sang Nkosi Sikelele e Africa I had already left.

Yes.

COURT: Is Nkosi Sikelele e Africa sung only at religious meetings or is it also sung at political meetings? -- Mostly in political meetings.

MR BIZOS: Did you not know that it is a hymn in the Methodist hymn book? -- I came to know that. (30)

Yes. And one of its important lines is "Let there be no strife."/.....

strife."? -- That I do not know because I have never read it or did I ever have the opportunity of singing it complete up to the end.

Well it is only the fourth or fifth line. -- As I have already said I have never read it.

Yes. I am going to put to you that you, in your evidence-in-chief you only, you said that accused no. 3 shouted "Amandla" at the end of 16's speech. Was that correct?

-- Yes at that stage when accused no. 16 finished with his speech the audience shouted "Amandla". He also shouted (10) with the audience.

Are you saying that the inciting words were right at the end of the speech? -- This is contained towards the last words of, towards the end of his speech.

No, there is a difference between towards the end and the last words. Do you say that they were the last words of accused no. 16?

INTERPRETER: My Lord those were used by me because the word used by the witness is ambiguous. It may mean towards the end of his words or towards the end of the speech. Unless (20) he is specific then one can interpret it direct.

MR BIZOS: Yes could you please tell us whether they were his last words or whether they were towards the end of his speech? -- Those were contained in his speech towards the end of it.

They were not his last words? -- That is so.

So that if accused no. 3 said "Amandla" at the end of the speech, at the end of the speech, he did not respond with "Amandla" immediately after these words were uttered? -- I do not understand the question.

I will leave it at that. I think it is clear enough (30) but I will leave it at that, thank you. Tell me, you recall that/.....

that His Lordship yesterday read you a portion in Afrikaans?

-- That is so.

And after His Lordship read that passage to you that you said that the threat was conditional? Or the incitement was conditional? -- That is so.

What was the condition? -- The condition was if the councillors do not resign then they will be killed.

If they do not resign. Did you understand then the speech in a manner that an opportunity was being given to them to resign before they were attacked? -- That is so. (10)

When you were insisting that there was no condition your evidence was "They must be killed because they increased the rent". Which do you now say accused no. 16 said? -- I will explain. What he said is that the councillors have increased rents despite the fact that the community requested them not to increase the rents and they will have to be made (Interpreter: Again the word used there is ambiguous, it may mean they will have to be made to resign or be forced to resign). If not, that is if they do not resign they will be killed.

I see. So you now say that the words were that "if (20) they do not resign they will be killed"? -- That is so.

And if they do not resign their property will be destroyed? -- That is so.

And if they do not resign, there was a third one, well those are the two important. Yes, so what was this now, the way you are putting it it sounds like a prophecy? -- That is not so.

Well do you not realise that there is a difference with the manner in which you put it now and the manner in which you put it in your evidence-in-chief? -- There is no (30) difference.

You/.....

You do not see the difference, very well.

MNR HANEKOM: Edele, met respek ek dink in die hoofgetuienis, die nota wat ek het is die getuie se getuienis was "Hy sê toe verder dis tyd dat ons die raadslede moet dood maak as hulle nie wil bedank nie." Wat nie teenstrydig is met sy getuienis nou nie.

MR BIZOS: The point was I believe directed at another difference and not the difference that is referred to by My Learned Friend.

COURT: Very well you have got an answer. Will you go on (10) to a different aspect.

MR BIZOS: Was there any suggestion by accused no. 16 that they should be spoken to first not to raise the rent? -- According to accused no. 16 what he said was "We have asked them not to increase rent and they did not listen".

If you are recorded as having said that they must be spoken to in relation to the rent increase what do you say? -- No I cannot remember that.

You do not remember. Very well. Now do you really recall who the next speaker was after accused no. 16 or is (20) it possible that you got the order wrong? -- I remember that accused no. 2 was the next speaker.

And if I were to suggest to you that you are wrong about the order what would you say to His Lordship? -- No that is not so.

Well I am going to put to you that accused no. 1 was the next speaker and I am going to deal with his speech. -- No that is not so.

Very well, but I will still deal with no. 1's speech. You see do you recall when accused no. 1 came to the meet- (30) ing? -- Yes I do.

When/....

When do you say he arrived? -- At the time when the people went into the church building with the Reverend is the time when he arrived.

Did you know accused no. 1 before this date? -- No.

I am going to put to you that he in fact arrived whilst accused no. 16 was speaking. -- No.

Alright. And that he was not one of the planned speakers but that he spoke to Mr Hlubi and asked him whether he could speak. What do you say to that? -- That I do not know because he did speak at this meeting. (10)

Yes, and that Mr Hlubi said that "We have amongst us a person who is a member of AZANEU and he would like to say a few words". Do you recall that? -- That is so.

You remember Mr Hlubi saying that accused no. 1 wants to say a few words, you recall that? -- Yes I recall.

Yes, and as happens at meetings those few words turned out to be a speech for approximately twenty to thirty minutes? You recall that? -- That is so.

Would you agree with the estimate of time? -- That is so.

Do you recall what language his speech was in? -- That (20) is so.

What language? -- In Xhosa.

And I am instructed that he spoke what is called a deep Xhosa. I suppose it would be a similar expression to a "ware Afrikaans", a sort of Free State type of Afrikaans, very esoteric Afrikaans.

COURT: It is not the Cape Afrikaans?

MR BIZOS: I do not offer myself as an expert.

COURT: Well it is the same sort of thing as the King's English, is that what you mean? (30)

MR BIZOS: The King's English, yes the King's English. -- That is/.....

is so.

Yes and the Xhosa which urbanised members of the Nguni group would find it a little difficult to follow entirely?

-- That is so.

And was his speech interpreted for the benefit of the urban residents of Sharpeville? -- Yes there was an interpreter.

Yes. Can you recall how he started his speech? -- Yes I do.

How? -- He recited in English.

Yes. You told us that he recited a poem? -- Well I (10) do not know whether it is a poem or not.

COURT: He called it a resitasie, nie h gedig nie.

MR BIZOS: Nie h gedig. Yes I suppose there is a difference. Accused no. 1 says that he did not recite anything and he does not know any poem or recitation called "Afrika, Afrika". -- He did recite it.

Alright. Now I do not want to do it again because we must get on. You recall that I read to you a passage attributed to accused no. 1 from EXHIBIT AAQ, is it 7 My Lord?

COURT: Well there is 6 and 7. Which one do you want, (20) The Rand Daily Mail is 6 and The Sowetan is 7.

MR BIZOS: The Sowetan.

COURT: Yes, AAQ(7).

MR BIZOS: You remember that I read a portion to you and you denied that he said it? That he said most of what I read out? -- That is so.

Yes well I am going to put to you that insofar as the report goes in relation to accused no. 1 it correctly reflects a portion of what he said. You insist that what you denied yesterday was not said? -- That is so. (30)

I am reminded that you, when the newspaper was shown to you/.....

you, you admitted a portion which you had denied earlier. But be that as it may.

COURT: Well Mr Bizos either you let him read the passage or read the passage to him and go through it again or leave it when you have dealt with it yesterday. But you cannot do it on a sort of touch and go basis.

MR BIZOS: Yes. I will leave it My Lord, I do not want to traverse the same ground. It is there on record. Do you recall that he said "Amandla" as soon as he was given the floor? -- No. (10)

No? -- That is so.

Well the further conflict between you and him. And that the audience responded with "Awetu"? -- No.

Right. Now if you were to give us in one line the subject matters on which he spoke what would you say the subject matters on which he spoke were? -- Just repeat that question, I did not understand it.

If you were to tell us the topics on which he spoke, the subject matter on which he spoke, just give us which topics do you say he spoke on for about twenty to thirty minutes? (20) -- At the beginning he said we do not want the councillors altogether.

So he spoke about the councillors, what other subject matter do you say he spoke about? -- That they must leave the work or that is saying to resign.

Yes, I am not asking you to repeat your evidence-in-chief at this stage. What other topic did he speak on? -- I only remember this one about the councillors only.

Only the councillors. You do not remember any other subject matter? -- No. (30)

If he had only said what you had told His Lordship in
your/.....

your evidence-in-chief his speech could not have lasted more than a minute or two? -- Because his speech was being interpreted and at the same time he was talking at his time, at a leisure, it is possible that his speech could have taken thirty minutes.

Yes. But even making allowances for interpretation what you gave us in your evidence-in-chief, unless he was spelling the words out one by one could not have lasted more than a couple of minutes? -- No that is not so.

Yes. Now I am going to put to you some of the things, (10) or most of the things that were said by accused no. 1 at this meeting and I want you to please tell me whether you remember it, whether you do not remember it or whether you are able to deny that it was said. That the question of the increase of the rent was not to be taken in isolation and that it would not solve the people's problems. -- No that is not so. I did not hear him saying that.

He went further and said that the money that was taken as rental from the Black people was used to benefit the Whites, do you recall that? -- No I cannot remember that. (20)

Are you able to deny that he said a thing like that?
-- That is so.

You deny it? -- I deny that.

You recall him saying that the Community Councils had increased the rent but that they would not make sure that the electricity would be put in homes, would not make sure that the streets would be tarred? -- No.

And that it would not go for the benefit of the elder citizens and pensioners, to get a better deal? -- No.

Do you not recall that he gave that as a reason for (30) calling the councillors in derogatory terms, do you not recall that?/.....

that? -- No.

No. Did he not call them people who were not really representative of the people who elected them or puppets, or words to that effect? -- That I remember.

Yes. Well is that not a derogatory term? -- That is so.

Do you remember whether he spoke about the Unemployment Insurance Fund? -- No.

Are you denying that he spoke about it? -- That is so.

Well there is no point in putting the rest to you then, what he will say to His Lordship he said about that. What (10) did he say about the idea of not paying the increased rent? -- I do not understand the question.

Did he express a view about what should happen about the suggestion about the rent, the requirement that the rent should be increased? -- No.

So he had no view as to whether the rent should be paid or not? -- What he said is if this rent is being increased then Mahlatsi, the Mayor, is the person who is going to pay it.

Is that all he said about it? -- Concerning the rent, yes. (20)

Did he say that the question of the rent did not only affect the people living in the Vaal but even people far away like the homelands, in the Transkei? -- No he spoke about Soweto, not the Transkei.

Do you not recall him explaining that if people had to pay increased rent they would have less money to send home to their families in the homelands? -- No. I cannot remember that.

Does that mean you cannot deny it? -- That is so.

Do you remember that he expressed a belief that the (30) money collected from the extra rental would be used for the South/.....

South African Defence Force? -- No. I cannot remember that.

Can you deny it? -- Yes that is so.

You deny it? -- Yes I deny it.

Can you recall him saying that if the increased rental is eventually paid that the people must make sure that the government used the money for the purpose for which it was collected, and not for other purposes? -- Yes that I remember, that is so.

Yes. Do you remember whether or not he spoke about G.S.T., General Sales Tax? -- No I cannot remember that. (10)

Do you not recall him saying that the people pay G.S.T., which increased from time to time, and they do not know what happens to the money? -- No.

You recall that he ended his speech by raising his fist and saying "Amandla"? -- No.

And that after he spoke Mr Peter Hlubi took over the proceedings? -- No.

Who took over the proceedings after no. 1 finished? -- Nozipho Myeza took over.

No, I know that you said that, that she was the next (20) speaker but if you say that she spoke at this meeting who took over control of the meeting after no. 1 finished? -- Accused no. 4 stood up.

Yes. You now say accused no. 4 stood up. Yes, and did what? -- He introduced Nozipho to the audience.

Who had introduced accused no. 1? -- Accused no. 4.

Yes. You have now come back to your evidence-in-chief, but do you not recall that shortly before I put accused no. 1's speech to you you said that Mr Peter Hlubi introduced accused no. 1? -- That is so, Hlubi did have something to (30) say, in fact he said something. After that accused no. 4

then/.....

then introduced him to the audience.

No but you you cannot, it is not so easy. In your evidence-in-chief you made accused no. 4 the chairman. You have now, which is denied by accused no. 4. And when I, the introduction of accused no. 1 came up you correctly said that Mr Hlubi introduced him. You have now remembered that it was accused no. 4 that did it according to your evidence-in-chief. Can you explain it? -- As I have already said Hlubi had something to say, in fact he did say something. After he had said that then accused no. 4 is the person who stood up to intro- (10) duce accused no. 1.

That was not your evidence. Your evidence was that Mr Hlubi introduced accused no. 1. Have you any other explanation? -- No no other explanation.

Because I am going to put to you that the reason for that contradiction is that accused no. 4 was not the chairman, Mr Hlubi was. -- No.

Right. Do you agree that accused no. 1 as soon as he finished his speech went back into the crowd? -- No.

Right. I am going to put to you that after accused (20) no. 1 spoke accused no. 2 asked to speak, not as an appointed official speaker but as a volunteer speaker at the meeting. -- That I do not know.

If Your Lordship bears with me, I have a note which I am trying to make out. I am sorry My Lord. I am going to put to you generally that the words that you have put in the mouth of accused no. 1 were not uttered by him.

COURT: No. 1 you are talking of?

MR BIZOS: Yes, this is why I was correctly interrupted to put the accused's version in relation to his evidence-in- (30) chief. I am sorry about that. That he did not say that, anything/....

anything about fighting. -- No he did.

What did he say about fighting? -- He said the community must come together and fight.

Yes. Anything else about fighting? -- Yes he said something.

What did he say? -- He said the youth knows how to fight, or they can fight, they are capable of fighting. Once they start the fighting the elderly people then must follow.

Yes, anything else about fighting? -- That is all.

Now you recall yesterday that you told His Lordship (10) that there was no reference to a song, that there was no singing other than the hymn? -- That is so.

Was that correct? -- That was correct, yes.

Did accused no. 1 make any reference to any song? -- No.

Did he not say that we must listen to the song and fight?

-- Those were his words.

Which song was he referring to? -- He did not explain that.

Well was the remark meaningless then? --

COURT: Well that was a bit different because it was inter-(20) preted first "Ons moet luister na die lied en baklei" but then it was corrected to say in fact it was "Let us face the music".

MR BIZOS: Yes, I will not take it further My Lord. Well I am going to put to you that neither version was put. -- That is what was said.

And I am going to put to you that there was no call for the SRC's, nor that Mahlatsi must pay the rent, nor words to the effect that we will get the dogs. -- That was said.

Yes. Did you know accused no. 1 before this day? -- (30)

No.

Yes./.....

Yes. You could not have taken particular notice then as to precisely when he came in or any particular notice of him until he actually spoke? -- I did see him.

You could not have taken particular notice of him? You had no reason to take particular notice of him before he actually spoke? -- Even prior to that because he was in the company of the people who were in front.

I am going to put to you that after accused no. 1 accused no. 2 spoke. -- No.

That he too was not one of the invited speakers but (10) took the opportunity to speak once the discussion was open to the floor, that he asked for permission from the chairman of the meeting, Mr Hlubi, and this permission was given. -- No.

That he asked for permission to introduce a motion. -- No.

He did not want to introduce a motion? -- He did speak in that meeting.

No did he introduce a motion for approval? -- Yes he did.

Yes. What was the motion that he introduced? -- His words were he is requesting all the people not to buy from (20) the businesses of councillors.

Yes? Was that the only thing that he proposed? -- And not to make use of taxis belonging to the councillors.

Yes, can we call that a motion to boycott the councillors businesses? Generally, can we just. Yes anything else that he proposed?

COURT: Do you know what is a motion? -- Yes I understand it.

What is a motion? -- A motion is what a person has in mind and this he brings to the notice of the other people in a (30) gathering for their approval, or what one has in mind and he

puts/.....

puts it forward to any other person to whom he feels must know about this in order that person must approve of it.

To be voted on or not voted on? -- At times people can decide to vote for a motion.

MR BIZOS: Or sometimes it is voted by acclamation? -- That is so.

And sometimes disapproved of by boos or the clicking of the tongues? -- That is so.

COURT: Do you understand a motion to be a proposal which is formally put to the meeting to be either approved or dis- (10)
approved of? -- That is so.

Thank you.

MR BIZOS: And was such a motion, which we will call the boycott motion, the boycott of councillors' businesses motion proposed by accused no. 2? -- That is so.

Did he speak in favour of that motion, the boycott motion? -- That is so.

Was it approved by the people there present? -- According to me, yes.

By acclamation? -- Yes especially those who were in (20)
the same row with me where I was seated.

It had general approval? -- That is so.

And it was not even, the approval was so general that it was not even necessary for the chairman to ask whether anybody was against it? -- That is so.

Was his speech being interpreted? Was his speech in support of his motion being interpreted? -- No it was not.

You are sure about that? -- That is so.

Is it possible that you missed it, missed the interpretation? -- No. (30)

I am informed that this may be a convenient stage....

COURT:/.....

COURT: Well let us just deal with this aspect. Is it put that it was interpreted?

MR BIZOS: That it was interpreted.

COURT: It was interpreted. From what language to what language?

MR BIZOS: From Sotho into the Nguni group mixture. And so that we do not have to come -- No.

You say now. And I am told that the words of approval of the motion was "Rea dumela" is that correct?

COURT: "Rea dumela"?

MR BIZOS: It is spelt for me My Lord, r-e-a d-u-m-e-l-a. (10)

INTERPRETER: My Lord that is not my problem. I understand what the defence is putting to the witness but for me to put it across I will have to put some words into his mouth.

MR BIZOS: Well I think we can be practical Mr Interpreter.

INTERPRETER: It is difficult to put it the way he has put it because already it is in the fashion in which I was going to interpret it over to the witness.

COURT: You need not interpret it. You need merely tell the witness the word as it is put in the original. -- No.

MR BIZOS: Well what were the words of approval? -- They (20) just said yes it is true the way this person speaks, it is true.

Yes, we will not get down to ...

COURT: Were you still in the meeting when motions were put to the meeting eventually for approval? -- No.

Mr Bizos is it put that immediately after accused no. 2 spoke his motion was put to the "vote"?

MR BIZOS: Yes.

COURT: I see, yes thank you I will take the adjournment now.

C82

COURT ADJOURNS FOR TEA. COURT RESUMES.

(30)

MR BIZOS: My Lord I would like to correct something that I told/.....

told Your Lordship immediately before the adjournment. It was not from Sotho to Zulu but the other way around. Accused no. 2 is Zulu speaking and it was translated into Sotho. -- No it is still no.

You deny that there was any translation? -- That is so.

But now can you recall anything else that accused no. 2 said except to propose this motion? -- No.

Nothing at all? -- Are you now asking me about what further did he say at that stage?

Yes. -- He did say something. (10)

Yes what did he say? -- He said the councillors are having powers which powers they are using wrongly.

Yes? -- Because they evict people from houses.

Yes? -- And then he further said that he is asking the audience to convey his message to the other members of the community who were not at this meeting.

What message? -- That the people should not buy from the shops belonging to the councillors.

Yes. Right. Yes, anything else that he said? -- He said he has got nothing further to add to that because (20) most of the things that were supposed to have been discussed there were already mentioned by Mr Manthata.

Did he call on the councillors to resign? -- No.

You are sure of that? -- That is so.

Why are you sure of that? -- Because I remember pertinently that he did not utter those words to the effect that the councillors should resign.

Yes but you see your memory has changed since yesterday. Because you recall that I read to you what was attributed to accused no. 2 in the Rand Daily Mail report, that is AAQ(6), (30) and I read out to you this portion and you agreed that he said/.....

said it, "He petitioned the councillors to resign from office"

-- No.

Well let me assure you that you agreed that this is what was said by accused no. 2. Any explanation? -- If I admitted this then I will say I admitted it by mistake.

Oh. Any reason why your memory should have changed from yesterday to today? -- No reason.

No reason. Or is perhaps the explanation that because of the circumstances under which you have been called to give evidence so long after the event you cannot really be sure (10) of anything that you attribute to any particular accused?

-- Well it can be like that.

Because you see that as far as accused no. 2 is concerned in general terms there is substantial agreement between you and accused no. 2. But what I want to put to you is this, whenever accused no. 2 may have spoken he most certainly spoke after accused no. 16? -- That is so.

If the crowd of over a thousand or more people had already by acclamation accepted the proposal of accused no. 16 that the councillors should be stoned to death and their (20) property destroyed, which presumably would have included their shops, how much sense did his motion make that their shops should be boycotted? -- I am not in a position to answer that because these are two different speakers addressing about what they want to address.

No but you see it is not so easy because you told us, you told us that accused no. 2 said that he agreed with everything what no. 16 said? -- That is so. That is the message.

Yes, and incidentally accused no. 2 will tell His Lordship that he did associate himself with accused no. 16's (30) speech accept that he disagrees that those, the incitement

to/.....

to violence was there. No. 2 said so. Now with that background would it have made sense to the thousand odd people there that if everyone by acclamation had applauded the suggestion that they should be killed and their properties and their shops should be destroyed that thereafter somebody should put the motion that their shops should be boycotted? Does it make sense to you? -- Those were the speeches by the speakers who were making the speeches.

Yes, I know that that is an easy answer to give whilst you are in the witness box there now but did it make sense(10) to you at the time that this thing was not gelling together? That here is one speaker saying "Kill them, destroy their property" and the next speaker comes along and in a democratic fashion puts a motion that their shops should be boycotted and asks for approval from the meeting? Did it make sense to you at the time that this was happening? -- As I say that was a speech from different speakers. Each and every speaker made his own speech and I had no position to take there.

Did it make sense to you at the time?

COURT: Mr Bizos you have now three times traversed this (20) aspect which is actually something which you can put in argument.

MR BIZOS: As Your Lordship pleases. Did the suggestion that the message of the motion should be carried out, should be carried to other people who were not at the meeting, clearly indicate to you that this was going to go, that accused no. 2 intended this to be an ongoing process of organising a boycott against their shops and garages and taxis? -- That is what I understood, yes.

Now you say that the next speaker, or that a speaker,(30) never mind the next, that a speaker there on that day was

Nozipho/.....

Nozipho Myeza? -- That is so.

Did you know her before this meeting? -- Only by sight.
I had seen her before.

Could you please give us a description of Miss Nozipho Myeza? -- She is a younger person.

Yes? -- And of a middle height.

Yes? -- She is not thickset nor is she lean, she is just in between.

Yes? Would you say that she is under thirty? -- It is possible. (10)

Light in complexion? -- Not very light.

COURT: How did you come to learn that her name was Nozipho Myeza? -- At the time of her introduction.

MR BIZOS: Because I am going to put to you that Nozipho did not speak at this meeting but spoke on a meeting of the 26th, that is the following Sunday? -- No that is not so.

And that the person that did speak from the floor, the woman that spoke from the floor is generally known as Nana? -- No.

COURT: Now let us get clarity on what you disagree on. (20)
Did Nozipho speak from the platform or from the floor? -- She went up to the platform.

Yes, and spoke turning round and addressing the crowd? -- That is so.

Now it is put to you that a woman by the name of Nana spoke from the floor, I take it that is not from the platform?

MR BIZOS: No My Lord that she was on the, she was part of the audience and went up to the platform. I am sorry if I led Your Lordship into, she was a member of the audience, Nana was a member of the audience and went up to the platform (30) to speak.

COURT: /.....

COURT: Well, so she did what this witness says Nozipho did.

MR BIZOS: Yes My Lord.

COURT: So it is question of was it Nana or was it Nozipho?

MR BIZOS: That is so. -- No.

COURT: Do you know a lady called Nana? -- No.

MR BIZOS: Right. Did you have any information before you went to the meeting in relation to Nozipho Myeza's involvement in any way? -- No.

I am going to put to you that the woman who spoke did not speak of burning or killing. What do you say to that? (10)
-- She did speak of them.

Now were the words "Siyaya siyaya" uttered at this meeting? -- They were used.

On how many occasions? -- On two occasions.

After who spoke? -- After Nozipho's speech.

And the other occasion? -- This was twice after the address by Nozipho.

Twice after the address. At no other time? -- No.

And accused no. 2 had spoken long before Nozipho? --
Nozipho spoke after accused no. 1. (20)

What did you understand by these words "Siyaya siyaya" in the context that you say that they were used? -- I understood the words to in fact agree with what was said by this woman.

Yes. Well I am going to put to you that the words "Siyaya siyaya" were not used. -- They were used.

Is this the first time that you heard those words?

COURT: AT the meeting or anywhere else?

MR BIZOS: Anywhere else? -- It was the first time in this meeting. (30)

No, or at any other time? -- That is correct, not prior
to/.....

to that.

You see because there is a song "Siyaya siyaya". It is neither a slogan nor a response which is appropriate at the end of a speech. What do you say to that? -- After the speech by Nozipho they said "Siyaya siyaya".

Right. Now you told His Lordship yesterday that you left the meeting because you felt that the presence of Letsele was noticed and that you feared that you would be assaulted? -- That is so.

Now could you please tell us what was said or what was (10) done that gave you this idea, what happened? -- That was during the time when they were making this noise in that church building, uttering these words "Siyaya siyaya".

Yes? Why is, is it those words that frightened you? -- During that time when they were shouting "Siyaya siyaya" they were standing and then Letsele requested that we leave at that stage because he has been seen by certain people, so it is the best thing for us to do to leave while these people are still standing on their feet.

Tell me you told His Lordship yesterday that the meet- (20) ing was coming to an end when you decided to go? -- That is so.

How did you come to that conclusion? -- That is because when we arrived at the police station we noticed that the people are leaving the church, going away.

Oh I see, so there was objective evidence that the meeting actually finished within minutes after you left it? -- Yes because I noticed most of the people leaving.

Yes, almost on your heels, coming out almost on your heels so to speak? -- No after some time that I was at the police station. (30)

Where was your car parked? -- In front of the church.

So/.....

So did you have to come back from the police station to come to your car? -- No I left in my car.

From, oh as soon as you came out you took your car to the police station? -- That is so.

Where did you park it? -- In front of the police station.

Within view, within the view of the people if they were at the door of the church? -- That is so.

Why did you, did you not think that this may blow your cover as a security police sergeant by going from the church to the police station? -- No. (10)

Why not? -- Because I was not trying to cover myself.

You were not trying to cover the fact that you were a security policeman? -- No.

Yes. You see because I am going to put to you that that bit of your evidence is correct, because accused no. 2 knew you well as a security policeman and he drew, right at the beginning of the meeting when he saw you, he drew the attention of the people there on the platform that the security police were at the meeting. -- Well that I do not know.

COURT: Mr Bizos this is the second time you have put (20) this to the witness. It is not necessary that you put your case twice to the witness.

MR BIZOS: I am sorry My Lord, I did not know that I ...

COURT: This aspect you have already put to the witness.

MR BIZOS: From the motor cars I thought but not

COURT: No this aspect of drawing the attention to him on the platform.

MR BIZOS: On the platform. What I am going to put to you that you were not in any danger, or as a result of any discovery by Letsele because it was known certainly to the people on (30) the platform that you were a security policeman and that

you/.....

you were there. -- That I do not know.

Yes. Did Letsele tell you whether he was well known to accused no. 4? -- That is so.

And accused no. 4 was there, I am going to put to you, almost from the beginning? -- Yes.

And that, did Letsele tell you that accused no. 4 and he, Letsele, had been part of COSAS together? -- No.

Did he tell you that he, Letsele, had been ejected from a meeting in the Roman Catholic Church, Small Farms? -- No.

In August 1983 when it was discovered that he was (10) actually working as a policeman? -- No he did not tell me about that.

Now did you make any attempt, well I am sorry could I cancel that, was it announced at the beginning of the meeting by accused no. 3 that this was one of a series of meetings? -- I am not clear on that question, what the question is.

Was there any indication whilst you were at the meeting whether this was an isolated meeting or whether it was a series of meetings, that one had taken place before and that another or others would take place in the future? -- No except (20) that he explained this meeting to be in connection with rent.

Did you as a result of any information, independently of what happened at the meeting of the 19th, know that there was going to be a meeting on the 26th?

COURT: That is now 26 August.

MR BIZOS: August 1984. -- That is so.

You knew about that? -- Yes I knew.

Did you make any arrangements or were you party to any arrangements to go back to this meeting in order to listen what was happening, what might happen on 26 August 1984? (30) -- I did not go there, I sent my informer.

You/....

You sent your informer. -- Informers.

Informers. And I suppose you want to protect their identity? -- That is so.

Right. We will not ask you about that but we will ask you this, did any police officers arrange to go to the meeting of 26 August?

COURT: Do you want him to tell you about hearsay? Because he did not deal with the meeting of the 26th did he?

MR BIZOS: No but he was party to the observation because he says he sent his informers. I am not asking him what (10) steps were taken. May I make it clear then?

COURT: I am not clear why you are asking him about the meeting of 26 August at all. You may get information which is detrimental to your clients and we may be busy for half an hour on that and it may all be hearsay.

MR BIZOS: No My Lord, with respect, the reason why I am doing it is this, that if accused no. 16 said these terrible things on the 19th and they knew that there was going to be a meeting on the 26th one would have expected some steps to be taken in order to have as accurate a record of what other (20) speakers might have said at the subsequent meeting. That is the purpose for which I am asking.

COURT: If he was in charge.

MR BIZOS: No, but he was party to the arrangements.

COURT: Yes very well, put your question. What is the question again?

MR BIZOS: Were you party to the making of the arrangements for keeping the meeting of the 26th under observation? -- That is so.

Were you in charge of the making of the arrangements (30) to keep the meeting of the 26th under observation? -- No.

Well/.....

Well were you one of the persons who discussed what is to happen in order to keep the meeting of the 26th under observation? -- No.

Do you know of any steps being taken by the police to either record, get somebody to take notes or to try and get an accurate record of what was going to happen on the 26th? -- Keep a record how and where?

No were there any special arrangements made in order to keep a record or to have an accurate record, one way or another, what was said? Other than your informers? -- No (10) it was just an observation from the distance.

Right. Did you know before 2 September 1984 that there would be a meeting on 2 September 1984 at this church? -- That is so.

Do you know of any special arrangements being made to either record or to get an accurate account of what was being said at the meeting of the 2nd? -- Yes it was an observation.

Also from a distance? -- Yes an observation from the distance plus the informers were inside.

Who were inside. Now would you agree that the members(20) of the community in Sebokeng, in Sharpeville, generally speaking expect informers to be present at meetings where political issues are discussed? -- That I will not explain.

You will not explain? -- I will not.

Is that because you do not know or do not want to? -- What I am saying is this, I have never been to a political meeting where the audience, while I am there, suspected that there were informers in that meeting.

Because I am going to put to you that the general assumption is that at all these meetings that there are people who(30) are either, who either have mechanisms attached so that the police/.....

police can record or that there are informers at the meeting? Now what do you say to that? -- No I do not know that.

You do not know. Now please tell us about your companion, other than Letsele. In what capacity did he come to the meeting? -- Because of his kind of work, that is why he was there.

Yes, was he there

COURT: Why do you not ask him that when he gives evidence? Because if I have to make an order before he gives evidence that his identity is not at all to be disclosed that order (10) would become nugatory if you ask questions in that vein at the moment.

MR BIZOS: Yes. My Lord I have a number of questions to ask this witness in relation to him.

COURT: Well why do you not ask that witness those questions?

MR BIZOS: No, because I am entitled, with respect, to test the credibility both of this witness and the other witness.

COURT: Quite so, quite so.

MR BIZOS: And I would like to ask these questions. I see that we only have one member of the public that does not (20) appear to be, would not be entitled, we could possibly ask him, I do not want to prejudge the, or rather render nugatory any order that Your Lordship may find it necessary to make. If we could ask that member of the public to leave and the members of the press to say that ad hoc we are in camera, but I would like to ask these questions because I consider them of some importance.

COURT: Yes, very well, if you do not get out of this witness the name of that person so that it does not come on record. I order then that the proceedings are in camera for the (30) short while while Mr Bizos is cross-examining this witness

on/.....

on this aspect.

MR BIZOS: As Your Lordship pleases.

COURT: And the same that applied in the other cases applies to the press.

MR BIZOS: As Your Lordship pleases.

DELMAS TREASON TRIAL 1985-1989

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