

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA

(TRANSVAALSE PROVINSIALE AFDELING)

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SAAKNOMMER: CC 482/55

DELMAS

1986-06-19

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

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 111

(Bladsye 5 501 - 5 553 )

COURT RESUMES ON 19 JUNE 1986.

MANDLA BENNET MGUBA, d.s.s. (Through interpreter)

CROSS-EXAMINATION BY MR BIZOS : Sergeant Mguba, you distinguished your knowledge of the office bearers of the organisation when giving evidence yesterday by in some instances saying "van hoor", as a result of what you heard. -- That is correct.

Then your evidence went on. You said "It is not only from what I heard, but I know." Do you recall that? -- That is true, that is what I said, but I qualified that by saying(10) that after getting it from the people who were concerned about this then telling. It is then that I said I knew from then.

So, your knowledge comes about as a result of what the people told you when you spoke to them after they had been detained. I think you told us during the last or the previous emergency? -- No, that is not what I said.

COURT :

He did not mention the previous emergency. He merely said that from time to time when he assisted the security police, he came into personal contact with these people who told them what their functions were.

(20)

MR BIZOS : Was it after their arrest? Let us leave the emergency out. Was it after their arrest or detention? -- Before that.

Was that at the police station? -- That is so.

Was it when they were being asked questions by your superior police officers? -- Yes, but I also spoke to them.

I accept that what you say to us for the time being, but it was at a time when they were really being asked questions and you were listening to what the answers were? -- There were times when I spoke to these people personally and at times(30) I was used as an interpreter, during which period I do not

... / take

take much care of what they say, while being questioned by others where I am interpreting.

So, this information came to your knowledge in one of two ways. Either because you yourself were asking questions of these at the police station or because you were listening from time to time whilst acting as an interpreter? -- Yes, that is so. It is during the time when they were talking to other people while I am interpreting, but there are times when I spoke to them personally.

And that is the time when you learned the full names (10) of the persons and their portfolios? -- That is so.

I want to ask you generally. During 1984 you told us that you had no connection whatsoever with the security police except that you were presumably sometimes asked some questions? -- No, that is not what I said.

Well, what did you say? -- I said it was only 1985 after the incidents that I referred to that I came to work with the security police. It is only then that I had something to do direct with these people by being in the security police.

Well, I would like to please establish through you when(20) you first made your first verbal or written report to the security police in relation to anything that happened in your community during 1984 and/or 1985? The first ever report that you made to the security police? -- It was after the incidents I have mentioned, burning down of the premises. It is only then that I started reporting about these occurrences to the security police.

Are you referring to the incidents in the middle of March 1985? -- That is so.

Can we then take it that you made no report of whatever(30) nature, verbal or in writing or even in casual chat to a

security police officer prior to the middle of March 1985?

-- During the year 1984 I used to have chats with the people of the security about certain things that I happened to know about, only to find out that they know about these things, because they had their informers.

Did you yourself not make any report to any senior officer of yours in relation to anything that you saw or heard in the township?

COURT : That is now apart from the security police. Any senior officer? (10)

MR BIZOS : Any senior officer, including the security police. Any senior officer, including anyone in the security police?

COURT : Before March 1985?

MR BIZOS : Before March 1985. -- There is something.

Did you make any reports? To whom and when? -- To my station commander.

When did you make the first report? -- That was in November 1984.

Did you make a written report? -- No it was a verbal report. (20)

Did your station commander make a note of what you had to say? -- No. What I saw happening there is that he telephoned the security police in my presence.

Was there any further investigation conducted as a result of any report that you made to your senior officer? -- Not by myself nor my senior officer, but it was carried over to the security police, who then took it further. I do not know what else they did, because they were on their own.

Were you called upon to make any statement in relation to anything that you saw or heard prior to March 1985? -- (30)  
No.

Were you called upon to attend any identification parade or take any other investigational step prior to March 1984?

-- In connection with what?

In connection with anything that you saw or heard that you described to His Lordship in your evidence-in-chief as having happened prior to March 1985? -- No.

Did you know that the ANC was an unlawful organisation during 1984? -- I know that.

And that it was a serious offence to display placards saying "Viva ANC"? -- That is so. (10)

You told us that in 1984 you saw placards at meetings saying "Viva ANC"? -- That is so.

Could you please tell us how big the writing was on these placards that you saw? -- The pen used was a caucie pen. (Witness indicates how thick the pen was)

COURT : One of the very thick caucie pens? -- That is so.

About 2cm in diametre.

MR BIZOS : I think there is a misunderstanding. Are you giving us the thickness of the pen with which they were written or the thickness of the letters? -- That is the thickness of the letter. (20)

3cm, My Lord?

COURT : I would make it 2cm, but it makes no difference.

MR BIZOS : So, you could read them clearly? -- That is so.

How many such posters saying "Viva ANC" were there being openly displayed in September 1984 in Summerset East? -- I saw of them. One was put up on a tree in the vicinity of the hall on which I was keeping observation and the other one I saw was put up at the beerhall. So, the others were brought to the police station by some police members. (30)

COURT : We are only talking now of placards with the words

... / "Viva

"Viva ANC" on them? -- That is what I am saying.

MR BIZOS : Let me see if I get you clearly. You saw two placards one put up on a tree and the other one on an immovable structure and you see saw others at the police station? -- That is so. The police then explained where they found those that they brought.

You yourself did not see any "Viva ANC" signs being carried by individuals in the immediate vicinity of the meetings that you described? -- No.

Because if you had seen anything like that, people (10) carrying it, you would no doubt have run to your superior officers and immediately have given a description of the people that were carrying these offensive signs? -- That is so.

And these signs that you saw with the ANC on them, did they only have "Viva ANC" on it? --No.

What else did they have on them? -- They were advertising a meeting with the end , right at the end of this thing it was written "VivaANC" and other organisations like "Viva SEYCO" and "Viva SERA."

But now, did you see any placards being carried by people (20) at the meeting? -- No.

So, at or near the meetings you saw no placards whatsoever yourself?

COURT : Carried or not carried?

MR BIZOS : Carried or not carried.

COURT : Well, he has already said the one was against the tree near the meeting.

MR BIZOS : I am sorry. You yourself did not see any people carrying any placards at the meeting? -- I said no.

Do you remember being asked questions by the prosecutor (30) in this case?

COURT : I do not remember that he said previously that the placards were being carried?

MR BIZOS : The question that I recall that was asked was whether there were placards being carried at the meeting and that his answer was yes.

COURT : No. "Die vergadering is geadverteer met pamflette en plakkate. Die plakkate se bewoording eindig kenmerkend met" en toe is al die besonderhede gegee. "Al drie was genoem op die plakkate." I asked him a question about ... (MR BIZOS intervenes) (10)

MR BIZOS : Yes, I have Your Lordship's question.

COURT ; There is no evidence that I wrote down that he said that the placards were being carried.

MR BIZOS : I will leave it at that. Wat happened to those placards?

COURT : That is now the placards on the tree or the beerhall or the others that were taken to the police station?

MR BIZOS : Anyone that you saw. What happened to them? -- The two that I saw I took off and took with me to the police station. (20)

And handed them to who? -- I handed them to the station commander. Later we tried to find out as to who the person was who had put them up there. We could not find out.

Let us turn to the pamphlets. Did you yourself get any pamphlets advertising the meetings that you say took place in October/November 1984? -- That is so, because in fact they were thrown around in the main roads or on the main roads so that people can pick them up.

And you say that there were UDF pamphlets in 1984? -- There were pamphlets from the organisations which were advertising the meeting and in 1984 only on one occasion I (30)

... / did

did come across pamphlets of the UDF.

Advertising a meeting or of a general nature? -- I am sorry, not in 1984 but it was in 1985 when I found the UDF pamphlets.

So, in 1984 you did not see any UDF pamphlets? -- That is true. I did not see any UDF pamphlet in 1984, except the pamphlets that were advertising the meetings from the local organisations which of course also had the following "Viva UDF" on them. I only came across a UDF pamphlet for the first time in 1985. (10)

Did you gather any of the pamphlets that you found there in 1984 up to June 1985? Did you gather any of these pamphlets? -- I did. Two or three of them were taken by myself and some were taken by the other police who were patrolling the area.

Did you before coming into the witness-box see any of these pamphlets or were you shown them in order to refresh your memory as to what they might have said and when the meetings were? -- What pamphlets are we talking about now?

The ones that you picked up and the ones that were picked up by the others? I am talking of the pamphlets that you (20) are speaking about? -- Are we talking about pamphlets from the local organisations or pamphlets from the UDF?

COURT : Did you pick up both? -- Yes. Not at the same time, at different times.

MR BIZOS : I will repeat the question. Before coming into the witness-box, were you shown any of the pamphlets that you and others picked up? -- No.

Do you know what happened to the pamphlets that you say you picked up? -- They were handed to the security.

And you do not know what happened to them after that? (30)  
-- No.



Could you please tell us in relation of the first meeting that you listened to from a neighbouring house, what sort of pamphlet was it and what was the date on it and did it announce the speakers? Can you recall whether you found the pamphlet before you attended the first meeting? -- This first meeting I listened to in November 1984, I did not receive a pamphlet with reference to the announcement of that meeting. I only had information about a meeting which was going to be held as a result of which then I monitored the meeting, but I do think that there were pamphlets, which were distributed for (10) people to know about this meeting.

Do you yourself recall seeing such a pamphlet? -- No, I only heard that there were pamphlets which were found by the people.

But you yourself never saw them? -- No.

So, before the November 1984 meeting you never saw any pamphlets? -- I had seen pamphlets.

COURT : It is a very wide question. It can run over several years and several sorts of pamphlets.

MR BIZOS : Have you seen pamphlets of these organisations (20) say for the last half of 1984? -- That is so.

Where had you seen pamphlets and whose pamphlets did you see? -- I saw them in the townships where they were distributed. In fact strewn over the streets of the local organisations.

But you did not see one relating to the meeting in November, the first meeting? -- No.

We will call that the first meeting. Did you see any pamphlet relating to the second meeting? -- In which year?

Well, the second meeting that you monitored from a (30) nearby house? -- I did not see or find any pamphlet, but I

... / saw

saw the placards.

Did you yourself see or pick up any pamphlets calling the third meeting that you monitored? -- No.

Could you please try and give us some idea in relation to the pamphlets that you did see which were not related to the meetings as to when you saw it? -- The first pamphlets that I saw was before November. That is between the period August and October.

COURT : Of 1984? -- Yes.

MR BIZOS : How many different pamphlets did you see during(10) that period? -- The pamphlets that I saw were from the local organisations. These pamphlets were criticising the community council.

The question was how many pamphlets did you see during this period? How many different types - different pamphlets did you see during this period? -- I cannot quite remember as to how many different types of pamphlets I saw during that period, but all I can say is, it was not the one type of pamphlet that I saw.

Could we please try and get some specifics from you (20) because unfortunately we just cannot accept that they criticised or they said something. Please tell us about the first pamphlet that you ever saw? That must have made some impression on your mind? Who was it issued by? -- The very first pamphlet I got I think it was a COSAS pamphlet.

You think it was a COSAS pamphlet. Do you recall whether it said "Issued by COSAS" or do you not remember? -- It was typed, right on top the name of COSAS was typed.

Was it printed or typed? -- I cannot quite remember.

You cannot remember whether it was printed or typed? (30) -- Yes. All I know is, it was not a handwritten document.

What did it say? -- It had something to say about education.

Other than that it had something to say about education can you tell His Lordship anything else? Any specific thing that it said about education? -- What I noticed was. It had grievances about education. In fact criticising the education.

But you cannot tell us precisely what it said? -- No, I cannot remember.

What other pamphlet did you see during this period? (10)  
Other than the COSAS period? -- SEYCO and SERA.

Let us just take it slowly. Did you see a pamphlet during August to October saying that it was issued by both SEYCO and SERA or both of them or one of them or the other of them? What is your evidence in that regard? -- The pamphlet was written the two names of the two organisations SEYCO and SERA.

Were those the only two names that were on? -- That is so.

Was that a printed or a typed or handwritten or a cyclostyle document? What was it? -- I am quite sure that on this one (20) it was typed on a stencil which was then later rolled, cyclostyle.

And what was the subject matter of that pamphlet? -- This one was making the community aware of what the aims of the organisations were.

So, it was a sort of public relations pamphlet? -- That is not the only thing that was there. It had quite more than that.

What more? -- It also made reference to the community councils.

(30)

Anything else? -- I cannot remember but there was quite

... / more

more contained in this.

Do you remember seeing any other pamphlets during this period in 1984? -- Yes, there are. Before November there were pamphlets.

Please tell us about the other one that you saw yourself? -- They were from the local organisations. I cannot remember exactly what was said in the contents of that pamphlet, but they were also saying something about grievances. Things like that.

Can you tell us which local organisation issued one (10) or other of them? -- The two I have already mentioned which were the organisations.

Was no other organisation mentioned on any of the pamphlets that you saw during this period? -- No.

You see, I cannot understand in view of your present evidence why when you were asked whether there was a campaign in 1984 in your community, you said there was and there were pamphlets being issued and when the prosecutor asked you by whom, your answer was it had UDF written on it and the other three organisations SEYCO, COSAS and SERA. Do you remember (20) that? -- That was not my evidence. That is not what I said. What I said is, the pamphlets which were being distributed and right at the end, that is the bottom, you would find them having been written "Viva SEYCO, Viva SERA, Viva COSAS, Viva UDF." That is what I said.

Are you seriously suggesting that to His Lordship that you found pamphlets in 1984 saying that they were issued by the three local organisations which had "Viva ANC" on them? -- There were such.

I am going to put to you that your evidence was what I (30) put to you that it was that you did not mention the word

... / "Viva

"Viva" in relation to the pamphlets and that you did not mention the ANC in relation to the pamphlets and I am going to put to you that the reason why you gave that evidence-in-chief is because you, as a police officer, associated with the security police know that some of the UDF leaders are on trial here? -- If that is the case that I did not make mention of that, that they had at the end those words as mentioned by me, then it means I was not asked on that.

Well, the record will speak for itself. Please tell me the name of the owner or occupier of the house from which (10) you monitored the first meeting you attended in November 1984? -- Unfortunately I cannot mention the name of the person.

Perhaps of the unfortunate circumstances that we live in this may be something that we will have to respect, but would you please write the name down and give it to His Lordship so that we can investigate the truth of your evidence or otherwise?

COURT : Well, if he says he is refusing to give it, I will have to give a ruling whether he is entitled to refuse or not, but he has just said "I cannot remember the name" or do(20) you not want to disclose the name? -- I know exactly what the name of the person was from where I was keeping observation. The only thing is that I do not want to divulge the person's name.

MR BIZOS : My Lord, I have asked, subject to the safeguard that I have indicated that the name should be written by the witness on a piece of paper and he will have an assurance that no one not connected - no person who is not a duly admitted practitioner will know about the identity of this person for investigation purposes.

HOF : Wat sê u?

(30)

MNR. HANEKOM : Ek het nie beswaar as dit onder daardie

... / omstandighede

omstandighede gegee word nie.

MR BIZOS : We will get the name in due course. Tell us, how far is this house from the hall where the meeting was held? -- It is just at the back of the hall.

In which way was the loudspeaker facing? Towards the back of the hall or towards the front entrance of the hall? -- The house from which I was monitoring this meeting which was held in this hall, is right at the back. That is the back of the hall itself. The end of it where the stage is. The stage is nearer to the house itself and with the windows open, that is the windows at the back of the hall, which windows are in fact on the stage itself, because of the position there. (10)

Was there on this occasion a loudspeaker outside or not? -- There was one at the front.

That would have been facing in the opposite direction to the one that you were monitoring? -- That is so.

And if the usual procedure was adopted of the speakers on the platform or on the stage being directed towards the audience, those two would have faced in the opposite direction to the one that you were monitoring the meeting from? -- It is possible. (20)

Please tell us, did you monitor this meeting from the beginning to the end from the time that it was opened to the time that it was closed? -- No.

No? -- I only started monitoring the meeting from when it started but I did not wait until the meeting was closed.

So, you were there at the beginning of the meeting? -- Yes.

Did you take part in the interrogation as interpreter of the people that held this meeting? -- Do you mean when they were being interrogated with reference to this particular (30)

meeting?

Yes? -- No.

Did you interrogate any of the three people or were you present at the interrogation of any of the three people that you mentioned in relation to this meeting?

COURT : On any other aspect?

MR BIZOS : On any other aspect. Did you interrogate any of the three persons you mentioned by name as the speakers at this meeting? -- No

Please tell us, as you monitored this meeting, who (10) presided at this meeting or who was the chairman, who was the master of ceremonies, who called everybody together? -- This young man Panama Njenje.

Please tell us what his opening remarks were? -- Are we talking about the first meeting or the second one?

We are talking about the first meeting? -- I am sorry, when I am talking about a meeting I monitored from the beginning but not until the end of the meeting is a meeting where the councillors were present. That is now the second meeting.

COURT : Revert to the first meeting. Did you monitor that (20) from beginning to end? -- No. The first meeting I only monitored from the time I came. It was not the beginning. It was halfway, the meeting. Because when these people came to the meeting I was positioned at a certain place watching them going in there until they were in. It is only then that I left that point from this house from where I was monitoring, as a result of which then when I came there, the meeting had already begun.

MR BIZOS : How long after the meeting had begun, because you saw it beginning, you saw people going in or when people stopped going in before you got to the meeting? -- I esti- (30) mate that to have been fifteen to twenty minutes.

... / COURT

COURT : Your answer that Panama Njenje was the chairman or master of ceremonies, does that relate to the first meeting or the second meeting? -- The second meeting.

MR BIZOS : We will accept that as a mistake for the time being, but let us stick to the first meeting, please. Who was speaking at the time that you started monitoring this meeting from a nearby house? -- Mzukisi Banzana was the speaker.

Please tell us everything that you heard Mr Banzana saying? Everything that he said that you monitored from the nearby (10) house? -- I heard him talking about the community councillors.

What did he say? I am going to ask, with His Lordship's permission, for you to assume that for the time being you are Mzukisi Banzana and I want you for the benefit of His Lordship to tell the Court what he said? -- It will be difficult for me to exactly speak in the way he was addressing. All I can do is just to mention the points on which he was addressing the people.

You see, I am going to suggest to you that it is very (20) easy to come into the witness-box and say that there was some sort of derogatory remark made about councillors. I want to know and I want to test your memory about what this man said. Please tell us what he said. The words that he used? -- I would like you to remember one thing, that during the time and during my time of work and duty, I am not only working on this one thing to memorise it for the whole year. I have other duties as well.

Yes, I am not unmindful of the busy time that you must have been having, but is the answer that you cannot tell (30) His Lordship precisely what the speaker said? -- I am in a

... / position



position to elaborate on the points.

Before we get to the points. For how long did he speak? Or rather for how long did you hear him speak? -- I cannot remember exactly for how long that it was that I was listening to him, but I estimate that to be between twenty minutes and half an hour.

Please tell us what you think you remember he said? --Not your interpretation. What you think you remember he said. -- What Mzukisi said there in his address was to encourage the people or to make them aware that they now have to work, (10) that is in relation to the community councillors, like people in Cradock who had already started working.

The next point that he made? -- Furthermore he said from now on the community councillors will have to be pressurised to resign, because they are meaningless.

Was he speaking in English by the way? -- No, in Xhosa.

Please carry on. What else did he say? -- He said since the community councillors were elected, there is no improvement in the township. The conditions are still the same, referring to the conditions of the street and the rent hikes. '20' He made reference to water taps and the lighting system in the streets which were poor, they were insufficient. Saying for instance that you would find there are hundred houses only having to be served by two communal taps.

What else did he say? -- He further said community councillors are nothing but government puppets.

What else did he say? -- He then said the councillors will have to be approached by delegates which will be collected or chosen from the community to go and speak to the councillors orally that they have to resign which resignations they (30) will have to come and announce at a mass meeting to be held.

... / What

What else did he say? -- That is all I heard him saying.

Who was the next speaker? -- Andile Ntshutu.

Could you please tell us for how long he spoke? -- I cannot remember but I doubt whether it took a long time.

Would you like to put an estimate on the time that he spoke?  
-- About ten minutes.

Do you remember precisely what he said? -- Yes, I think he had something to say on behalf of COSAS.

What did he say? -- In his address I remember him referring to the parents, that the parents will also have to be in- (10)  
volved in the education of their children.

What else? -- He further explained that the parent does not care about education as long as the child is at school.

What else? -- He further said that the parents will have to take part or be involved in a way to the grievances of the school children.

What else? -- What he said further was, the parents and the children are to form an organisation at which organisation they will be able to come together and discuss about their involvement and which they will have to take pertaining to the (20)  
education of the children.

What else? -- I think that was about all that I can remember.

Who was the next speaker? -- I cannot remember who the next speaker was.

Do you remember anyone else speaking besides these two?  
-- Quite a few of them spoke there, but they were not talking sense really. They were just talking things that made no sense.

All of us do not remember nonsense. -- That is so. (30)

And that is why you do not remember any of the nonsense

... / that

that the other people spoke. -- That is one of the reasons, yes.

You see, you mentioned the name of Reverend Msiza. I am not sure whether you said whether he spoke or whether he was present. Did you hear the Reverend Msiza speak or did he perhaps utter a prayer? -- From my monitoring there, what I could hear was that Reverend Msiza was trying to stop some happenings there. In fact there was a disorder in this meeting which he as trying to put straight and they would not listen to him until at some stage when he just decided to (10) stop.

To stop what? -- Because of the disruption he stopped continuing to bring order into the meeting.

But he did not make any speech? -- No.

You see, I spent some time asking you to recollect everything that you heard whilst you were monitoring this meeting and have you told His Lordship everything that you remember that was said at this meeting? -- It is not everything in the sense that this was not the way in which they were speaking there. I am only touching the points on which they said something. (20)

Something of importance that made sense to you and that you remembered?-- As I have said already.

You see, you have left out the most important part of your evidence-in-chief in relation to this meeting, because you told His Lordship and you spent a long time explaining it that there was a threat of harm to the councillors be it all in a metaphorical way. -- That is true. I had forgotten about it.

You have forgotten about the most important part of the happening? -- Yes, I have forgotten about that.

Despite the fact that I gave you at least two or three opportunities and all the time that you wanted to tell His Lordship everything that the speakers said. -- That is so. I have forgotten about that.

You see, I would have thought if you were telling the truth whilst I placed you back at this meeting and asked you to give us everything that you could possibly remember that that would have been in the forefront of your mind as it was yesterday? -- Yes, that is so, but I have forgotten about it.

Is it not that you perhaps have forgotten because (10) again as an associate of the security police you know that the allegation in this case is that the UDF and the other affiliated organisations incited people to harm councillors and you came along to give only that evidence as to what happened at that meeting?-- That is not so. I am only telling about what happened there, what I saw happening. I have forgotten about that point.

I am going to ask you this. Have you any explanation as to why the one thing that you forgot was the main thrust of your evidence in relation to this meeting yesterday? -- (20) I did not know that that was the main thrust of my evidence. All I am talking about here was pertaining to the community councillors as a whole.

For how long have you been in the police force? -- Nineteen years.

And as an experienced police officer you also have had considerable experience in giving evidence? -- That is so.

What is your standard of education? -- Matric.

Were you ever a teacher? -- No.

You see, even on the assumption that what you told the (30) Court yesterday may have been said about standing in the -

in front of the wheel. I do not want to spend a lot of time on this, but listen to what I say carefully. In Xhosa is there a similar expression of equating the wheel with progress? In Xhosa do you not say the wheel of progress will bring about improvements in our lives? The wheel of progress has created a lot of smog in the area? That sort of thing? -- That is true. It can be used in two different ways.

And politicians who are fond of metaphor often say that the wheel of progress will bring us to our freedom? -- Yes, I hear that being used daily. (10)

And that the wheel has momentum of its own and that nobody will stop it carrying on to the eventual day of our freedom? -- Yes, they may be saying that. I do not know.

Have you heard anybody saying that no one can stand in the way of the wheel of progress? -- Well, that is capable of being said. Nobody ever spoke to me about that directly.

Well, in view of the fact that you did not remember it being said under cross-examination are you able to say if these words were uttered in what precise context they were used? -- Being said where? (20)

At the first meeting that you monitored. Are you able to give His Lordship the precise context in which this wheel of progress might have been mentioned? -- I took in this way. I took it to mean that this means if one stands in the way of the wheel of progress, this is going to bump them or trip them. It would mean to me in my understanding that if a person stands in front of that wheel that a confrontation is going to take place.

The question is, are you able to tell His Lordship in view of the fact that you forgot about under cross- (30)  
examination of the precise words used or the circumstances

... / under

under which they were used, yes or no? -- What he said was, they are to be pressurised to resign. If they are refusing or they do not resign, that will mean they are standing in the way of the wheel of progress, which wheel of progress will trip them or collide with them.

On the assumption that you are correct, why does that mean that they are going to be killed or injured? Once a person uses a metaphor like that, that they will be left behind, that if there are fundamental changes they will be out of the picture? -- As a result of my experience of what was happening to councillors at different places, when this was said I then took it that way to mean what is going to happen is what had happened to other councillors.

Had anything happened to the councillors at Summerset East before this first meeting? -- Yes.

To whom and when? -- To Njenje.

When? -- It was in November just before they were called to this meeting, at which meeting they were supposed to come and resign. The back door of the house was set alight. It had happened prior to what happened to Njenje to Reverend Zantsi that his door was also set alight and the carpets were as a result of the burning door also damaged by fire. The windows were attacked.

We will come to that and when the councillors resigned, but let us just finish with the first meeting. You see, you were perhaps right that it may not have been the main thrust of your evidence-in-chief in relation to this meeting, because maybe you would like to choose the next bit of evidence that you forgot about as the main thrust of your evidence. Do remember yesterday giving the Court a story of how the (30) at this meeting were told to send the police to Coventry, that

they should not be spoken to?

COURT : Does the witness know what it means to send a policeman to Coventry?

MR BIZOS : That is why I explained it.

COURT : May be they use the term Cookhouse in that area. -- I am not clear with that question.

MR BIZOS : Do you recall that yesterday you told us that at the meeting the people were told not to speak to the policemen, you must not be friends with them, you must not have anything to do with them? -- What I said yesterday in my evidence was (10) was that it was said that people, that is the community, must not associate with the police. They must have nothing to do with the police, whether it being friendship or family friends. They must just have nothing to do with them.

But you see, can you explain to His Lordship why this aspect was forgotten by you when you were given an opportunity and were specifically asked to say everything that you remember that happened at this meeting? -- Well, it is natural to forget. I forgot about it.

Both aspects that you dealt with in relation to this (20) meeting were forgotten by you? -- I have forgotten about that. Otherwise I repeat it, that is what they said.

Let me just explain to you, because you are an experienced policeman. If you were telling the truth I would have expected you to have told His Lordship yesterday X said this, Y said that, witness who come here and speak, not the whole truth use the expression that you have used. People do not speak together. I now ask you, take a guest, who said about the councillors and who said about the police or do you not remember? -- I say Mzukisi Banzana in his speech is the (30) person who made mention of the councillors and the police.

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So, it was only he who said that? -- Yes, there were others who also made mention of that, but the only one that I could hear clear was him.

Yes, but why do you say that they said it? You are doing an injustice to one or other of the people there if only one person said it? -- When he talks about that, it means that it is a resolution that was taken by his committee. He is not saying things that is his own feeling.

How did you come to that conclusion that whoever speaks and belongs to an organisation speaks on behalf of an (10) organisation? -- I am quite sure that no organisation can convene a meeting without an agenda. What a person will do, will always have his agenda ready and then call a meeting.

Is that the reason why you say so? -- Yes.

Alright, leave it at that. You see, from what you heard at this meeting did you think that one or other or both of the speakers had committed an offence? -- No, I never thought of that.

You never thought of an offence being committed? -- I never thought anybody has committed a crime or an offence, (20) because it is a freedom speech and people are allowed to voice their opinions.

So, nothing that you heard at this meeting transgressed the valued freedom of speech that we are supposed to have? -- I will tell you, number one, when they were talking in reference to the community councillors that they are to resign they put forward their grievances which I also understood to be reasonable.

And that you thought it part of their exercise of the right of freedom of speech to say that you are not serving (30) us well, we have reasonable grievances, resign, otherwise the

wheel ... -- I am still coming to that.

Oh, alright. -- Secondly, after I have understood the first reason to be a reasonable one on grievances, I understood him to say that if they are failing to resign, then they will come across the wheel of progress which wheel of progress I understood if they say they are in the line or the way of progress. That means there is going to be a confrontation and once there is a confrontation somebody is going to die or the councillors are going to be killed.

And you consider that as part of the ordinary freedom (10) of speech? -- No, this one left a question mark with me, because I did not know whether it was just a speech or a remark in a speech in passing or whether they meant it or not. That is why I had to report this one to my officers.

But you still did not think that an offence had been committed? -- No.

Because if I understood your explanation correctly then what probably you thought that it was possibly meant, that it was not really a threat, but a prognosis of what might happen if they stood before the wheel of progress? -- Yes, (20) because another reason is this. The councillors who were referred to in this speech were not at this meeting. Therefore I took it not to be an offence of a threat to anyone.

And if there had been a direct threat to anyone, you would have thought that an offence had been committed? -- That is so.

And can we assume that there was no direct threat of anyone at that meeting? -- Direct, yes.

The only thing was the possibility of an indirect threat to the councillors? -- That is so. (30)

Indirect if they did not resign? -- That is so.

... / There

There was no indirect threat against anyone else at the meeting? -- There were not people who were directly threatened there, because it was said to the community there at the meeting that if the people are going to continue associating with the police, making friends with the police or family friends, then they will be burnt.

But now you see, what I am going to suggest to His Lordship cannot be understood that if that was said at this meeting when an opportunity was given to you earlier in the cross-examination to tell His Lordship exactly what was (10) said by each of the speakers, that threat would have been again in the forefront of your mind? -- As I said earlier, it is natural and it is human that I have forgotten about it. In fact literally I have forgotten about it.

I am going to give you one more opportunity to assure His Lordship that this question of the mass resignation of councillors was in November 1984 and not in April 1985? -- In November 1984?

COURT : No, it was misinterpreted. The question of the mass resignation of the councillors was in November 1984 and (20) not in April 1985. Are you sure of that? -- That is November 1984 yes.

Are you putting it to the witness that his previous evidence was that there was a mass resignation in November 1984 or do you mean to say that the resignation was asked in November 1984?

MR BIZOS : I see Your Lordship's point. The declared resignation. Is that what Your Lordship has in mind?

COURT : Yes.

MR BIZOS : What I am putting is or what I am asking ... (30)

(Court intervenes)

COURT : Let us say the simulated resignation.

MR BIZOS : That is the word, yes. Are you saying that the simulated resignation of the councillors was in 1984 and not 1985? -- That is so.

Were there any actual resignations at any time? -- They all have resigned now.

When did they resign? -- It was between March and May I think.

COURT : Of what year? -- 1985. I am sorry, this year.

This year, 1986? -- 1986. (10)

MR BIZOS : A couple of months ago? -- That is so.

Let us make the position quite clear. There was a simulated resignation in November 1984, there were no resignations inbetween and a few months ago there were mass resignations? -- Yes, they have resigned now.

COURT : No, no, the question is. Since November 1984 when they made as if they were resigning but they did not actually resign, there were no resignations at all until a few months ago? -- Yes, that is so.

MR BIZOS : There were according to you no resignations (20) whatsoever in April 1984, either simulated - I am sorry, there were no resignations whether real or simulated during April 1985? -- No, there were no resignations that I know of after the time when they pretended to have resigned in 1984 until now recently which period I have just referred to, except for one old man who resigned due to ill health.

Do you remember his name? -- Yes, Jose is his name.

WITNESS STANDS DOWN.

COURT

COURT RESUMES.

MANDLA BENNET MGUBA, still under oath (30).

CROSS-EXAMINATION BY MR BIZOS (continued) : You told us that

... / you

you mentioned what happened at the first meeting you monitored to your superiors? -- That is so.

Other than this oral mention that you made of the things that you had heard, was a statement ever taken from you in relation to the investigation of any offence that might have taken place in that hall? -- No, everything was left for the security.

But you yourself made no statement? -- Not a written statement.

You were not interviewed by the security police in (10) order to ascertain what you have heard? -- They did interview me on that.

And did they take a statement from you? -- No, they only took down the names of the speakers I mentioned there and said they are going to see the speakers and speak to them later.

Do you know whether they did? -- They have their own department and they work on their own. One would not know whether they have been to these people or not, but after having spoken to the security, I saw the security people coming with the speakers which I mentioned to them into their offices. (20)

How long after the event? -- Some few days, two or three days.

Do you know of any charge that may have been preferred against any of these speakers that you had reported on? -- No, I do not.

Were you not called to give evidence? -- No.

Nor to make a formal statement about what you might have heard? -- No.

You monitored according to you this meeting at the end of November 1984. Would you please tell us when for the (30) first time you made a statement, a written statement about

... / what

what you said you heard from a nearby house being said in this hall? -- I did not make a written statement.

Ever? -- Pertaining to meetings, not.

From what statement did My Learned Friend lead your evidence if you never made a statement? -- I made no statement whatsoever pertaining to all the meetings I monitored. Whether it be to the security police or may officers in charge of my section, until late last year when a statement was taken from me which statement was relating to the happenings and incidents including those which were happening during the years (10) that I was monitoring meetings.

So, do I understand your answer correctly, that even when you were approached late in 1985, that was last year, you did not make a written statement about what you had hear at this meeting that you monitored? -- The last statement I made is the statement which contains every detail, evan details pertaining to meetings as well.

When did you make that statement? -- It was late last year to an officer who came from Pretoria.

Was it approximately a year after the events occurred?(20)  
-- Yes, I would say quarter of the year.

When this officer came to you, such a long time after the events, did he explain to you why a statement was required so long after the events? -- No, all that he told me was that he was investigating a certain case and from information he came to me because he believes I can be of assistance in certain respects.

Did you ask him which case? -- No, I did not ask him what case it was. All he said to me was that I must tell him about what I know which was happening there during (30) that period.

When did you find out for the first time that this statement that you made was required possibly for the Delmas trial in which certain of the leaders of the UDF were on trial? When did you find this out? -- I came to know about that from my officers the same day after this person had left. That is the one that was taking my statement, that there is a possibility that I may be requested to give evidence in a case of some people.

When did you find out for the first time that you were destined to come from the Eastern Cape to Delmas? -- I left (10) my place on the 31st. That was two days before the 31st.

Are you speaking of May? -- Yes.

1986? -- Yes, this year.

When you made your statement, did you go into the files of the security police in order to see anything that you had reported during 1984 was possibly available in order to refresh your memory as to what you had seen and heard? -- No, I did not.

Well, why not? Why did you not use this means of refreshing your memory to possibly prevent you from going wrong? -- The security police are in Cradock, I am not in Cradock. (20)

Did you perhaps then say as one officer to the other to the person who was taking your statement surely there must be records in the security police files about this so that I can ascertain the date and refresh my memory. Please let me have a look at whatever documents there are available? -- Because of my having had pocket books on which I was making notes each and every time, I did not request that.

Did you note this monitoring in your note book? -- Yes, that is so. (30)

Where are those pocket books? -- They are filed.

Did you go to your pocket books? -- Yes, I did. In fact for me to remember most of the things, it is only then that I remembered them.

Oh, I see. So you had no independent recollection when you made your statement except for what was in yourt note book? -- What I am saying is, I remembered everything except of course that I had to refer to the pocket books pertaining to time and the months for instance, what month it was.

Am I to understand to that if you had been requested to bring your pocket book here, we would find notes in that(10) notebook which are more or less a record of the speeches that you say you heard Mzukisi Banzana and Andile Ntshutu made? -- There are important points that I made note of in short, not the detailed speech.

Did the officer who took your statement know that you had this notebook? -- No.

Did you not have it with you when you made the statement? -- No, the position is this. When he came there for the first time he warned me thathe was there and he is there to take a written statement from me, so I must try and remember, he (20) is coming back tome, he is still going to have something to do with my in charge. In the meantime I went and collected my pocket books which were filed and checked from then as to what was happening when and again refiled them before he came back for the statement to me, which means that at the time of making the statement, I did not have the pocket books with me

Was your statement taken at Summerset East or at Cradock? -- Summerset East.

And where were the books? -- Summerset East. (30)

Why did you not take them out when this officer was there



in order to show that you had contemporaneous notes of all the things that you were talking about? -- I did not deem that necessary.

Did you tell My Learned Friend about the existence of the contemporaneous notes? -- I did not find it necessary.

You see, what I want to put to you in relation to this first meeting, that if your evidence in this court is correct that there was a meeting at the end of November 1984 which was advertised by a poster which had "Viva ANC" on it, there was an indirect threat to serious damage to the property (10) of councillors or even their lives and there was a threat to burn people that continued to speak to Black policemen? And despite all that, nothing happened. There was just another meeting the following Sunday.

MNR. HANEKOM : U Edele, een stukkie van die stelling is foutief. Die getuie se getuienis was nie dat hierdie spesifieke vergadering deur die plakkaat geadverteer was nie met ANC op nie.

HOF : En n ander aspek natuurlik. Dit is nie dat niks gebeur het nie. Die persoon is ingetrek vir ondervraging. (20)

MR BIZOS : As far as the first one, My Learned Friend, with respect, I think that he said that the poster of this first meeting did have it on. As far as the interrogation - I will amend it. Your Lordship is quite correct. None of the people were arrested? --- No.

And you were not asked to make a statement about it? -- No, it was left in the hands of the security.

In the absence of these persons that you have mentioned from whom we cannot get instructions I cannot put specifically to you what may or may not have been said, but what (30) I am going to put to you is that from our general instructions

... / and

and the apparent lack of serious reaction by the police afterwards what you say was said was not said? -- Everything that I have testified about did take place, the way in which I have testified about and what was said was what I have related to the Court.

Have you during - were you not embarrassed this morning by leaving out both aspects of these conversations when asked to relate what happened? Were you embarrassed by it? Did you feel unhappy about the fact that you left out most important aspects from your evidence under cross-examination? -- It (10) worried me that I had forgotten about the two important issues.

Because I am going to suggest to you that if they had been said you would have remembered them earlier on? -- As I have already said that I have forgotten about them, I forgot about them.

Perhaps you could give us some information. Do you know whether the three persons that you mentioned as having spoken at this meeting where they are now, whether they are being detained or whether they are missing or anything like that? They are members of your community. Do you have any infor-(20) mation? -- It would be difficult for me at the present moment to tell you as to how or where to find them, because I left my place on the 31st. Before they left they were available there.

Did you go to this meeting as part of your duty on which your superiors had sent you or were you a keen police officer who merely worked there because as we have been told policemen are always on duty? -- As I said earlier I came to know about this meeting before it was held. It was discussed with my authorities, that is my superiors, as a result of which (30) I was given an instruction by them to go and monitor this

... / meeting

meeting. That is how I happened to be there in monitoring the meeting.

Could we now please turn to the second meeting. You told us that letters were sent to the councillors to come to a public meeting in order that they should be asked to resign at a public meeting? -- I did not say so.

Did you not? -- I said what was said there was that they will have to write some letters to notify them about this meeting.

If I paraphrased it wrongly, I am sorry. You told us (10) already that you were at the second meeting monitoring it from beginning to end and you told us who the chairman was? -- I did not say so.

What was wrong with what I was putting to you? -- What I said was, at the beginning of the meeting I was at this place from where I was monitoring the meeting, but I left before the end of the meeting.

You say that precisely the opposite happened of what happened in the first instance. For how long did you monitor the meeting? -- For about twenty minutes. I was disturbed (20) by being called as a result of which I had to rush home.

And did you hear everything that was said at the meeting whilst you were in the house nearby? -- Yes.

Please tell us, were there placards announcing the meeting and saying "Viva ANC" at the bottom? -- I did not see them.

Were there any placards at the second meeting? -- Which meeting are you talking about now or just now?

You are a police officer of nineteen years' experience. I have told you the second meeting the following Sunday. (30) -- Yes, that is exactly what I mean. I was answering, basing

my answer on the second meeting. I heard you repeating the same meeting.

Do not let us become involved in that sort of argument. Let us just have an answer to the question. I am talking about the second meeting?

COURT : Just repeat the question?

MR BIZOS : Were there mANC signs at his second meeting on this second meeting? -- Placards which were found, were found before this meeting was held.

Yes, you have told us about that. I asked you (10) whether there were any placards at the second meeting?

COURT : No, no, he was not at this meeting. He monitored the meeting but he was not at the meeting. You are at cross purposes. He is speaking of placards outside and you are speaking of placards inside the meeting.

MR BIZOS : No, not inside. Were there any placards outside advertising the second meeting with the ANC at the bottom? -- Not on the day of the meeting.

COURT : Before the day of the meeting? -- There were.

MR BIZOS : Where? -- They were put up on trees. Those are (20) the placards that we took.

Were those placards there between the first meeting and the second meeting or are you talking about the same placards that you described as having been found before the first meeting? -- There were placards which were found just before the first meeting which had reference to this particular meeting referred to as the first meeting, but after that meeting before the second meeting there were placards which were found having been put up on trees like the previous ones which police took possession of before the first meeting. (30) They had nothing with reference to the second meeting which

was to be held. They were announcing something else which I cannot remember.

Were they announcing something or were they perhaps just slogans? -- I cannot quite remember, but there was some writing on these placards.

So, there were no placards calling the second meeting, either with or without the ANC on them that you saw? -- No, because the second meeting was announced already at the previous meeting.

Please tell us, as you were there from the beginning (10) for a part of this meeting, precisely how the meeting was opened? -- I first heard freedom songs being sung.

Were these freedom songs sang before or after the chairman of the meeting took charge? -- After the chairman took his position and having announced that he is opening the meeting.

There were freedom songs? -- Yes.

When the freedom songs were finished, who spoke next? Did the chairman take over again? -- Yes, Panama Njenje, the one who opened the meeting, was the speaker.

What did he say? -- On that day some of the councillors(20) were present at this meeting.

Yes, we know that. The question was what did the chairman say? -- I heard him thanking the councillors for having attended the meeting to which he invited them. After that he explained to the councillors and the meeting there that the previous meeting resolved that the councillors should resign. He informed them about the grievances of the people, namely the condition of the township, the rents, et cetera.

You can assume that we will accept that he mentioned the list of grievances that you had heard at the previous meeting?

-- That is so. (30)

Did the chairman say anything else? -- He further said the community's perception is that they, the councillors, are useless and they are as a government puppets.

I just want to get clarity in relation to this please. Did the chairman say that they personally as persons were puppets or useless or was it that whatever quality they may have had as individuals could not be used in the council system? Which of the two was said? -- What he explained to them was the perception of the people in the community there is that they as a council are useless to serve the needs of the (10) people.

And that the grievances of the people had not been addressed system as a council body? -- That is so.

Did anyone else speak before any of the councillors there present responded? -- At the end of his address, that is the chairman, just before the next speaker, he said if the councillors resist and decide not to resign, they will be conceded by the community to be standing in the way of the progress.

Did he say anything besides that? -- Not that I can (20) remember with reference to the councillors. Sorry. Yes, he said they must now announce their resignation in the presence of the people there and tell the people there that they are resigning.

Anything else that the chairman said? -- I cannot remember any other thing with reference to the councillors.

Did the councillors respond or did anyone else speak before the councillors responded? -- The councillors were given the opportunity to respond to that.

By the chairman?-- Yes.

(30)

And did they respond immediately after the chairman had

... / finished

finished? -- I heard them responding, taking the floor and the stage one by one, saying that they are resigning.

You see, you had again said things which are inconsistent with what you said in your evidence-in-chief? -- What is that?

You made no mention of any such call by the chairman yesterday, but when you were asked whether any explanation was given by My Learned Friend here, you did not mention the chairman as having said anything, but another person, Mr Andile Ntshutu. Do you accept that that is what you said? -- I remember saying so. (10)

Do you now agree that that is inconsistent with your present evidence to the effect that the chairman spoke, asked them to resign and they immediately thereafter responded? -- Do you agree that your evidence is inconsistent? -- Yes, I am quite aware that the two statements are inconsistent, but I am aware up to now from yesterday, after having given evidence here, that there was a mistake in my evidence.

That makes it a double sin, if I may be permitted the expression, because I asked you specifically did anyone else speak after the chairman before the councillors responded (20) and your answer was no? -- Yes, between that, that is between the chairman and the councillors there was no speaker. It is only after the councillors had responded that Andile Ntshutu took the floor.

Now you are at sixes and sevens, with respect, because you have now contradicted yourself again. -- How?

You said that yesterday you realised that your evidence was wrong? -- Yes, I made a mistake.

Was the mistake that you attributed words uttered by Mr Andile Ntshutu to the chairman? -- That is right. (30)

Or I am being corrected by my colleagues that you attributed

words to Andile Ntshutu used by the chairman. You should not have mentioned Andile Ntshutu in that context. Is that what you realised yesterday? -- They were addressing on the same thing. In fact it was exactly the same speech, except that Andile elaborated on what was being said in the address.

I will not take you up on that, because I think we will be coming more confused, but what I want to ask you is this. When you realised that you had made a mistake yesterday on your own version, why did you not when you entered the court this morning say "My Lord, I want to apologise to Your (10) Lordship, I made a mistake and I want to correct myself"? -- This is why I admitted this right at the beginning that I realised it yesterday. That is my way in which I admit the mistake.

I do not think you answered my question, but let me put another one. When I started asking you about the order of speakers and what they said, was that not a wonderful opportunity for you to say "My Lord, I made a mistake, let me correct myself before I am asked any more questions about this"? -- I did not think of that at the time, because I (20) was facing the question which was being put to me. That is why I made mention of it now, because it is related to the mistake I know about.

You told us before the short adjournment that the speakers from these organisations articulated the grievances of the people and that you personally thought that some of these grievances were well founded or you considered them reasonable? -- Some of them were reasonable to me.

Let us not go into the details as to which are reasonable and which are not reasonable, but did some of the council-(30) lora at this meeting which you were monitoring respond to the



speech made by the chairman and say "Yes, some of your grievances are well founded. Therefore we are going to resign." Did one or other or all the councillors there present say anything like that? -- Yes, I heard Mr Lottering the councillor elaborating on that, that is with reference to the grievances from the community, which were put forward, that they were busy attending to some of them and they are expecting or awaiting moneys from some other sources. He said further that they themselves as a council were trying on what they had in hand to attend to the grievances but if the (10) people's feeling is that they should resign, then they have no alternative and then he announced his resignation.

And did the people applaud his resignation? -- Yes, I heard them clapping hands.

And did the other councillors in turn stand up and say "Because it is the will of the people, we also resign"? -- Yes, that is so.

Do you remember in answer to His Lordship yesterday, not by My Learned Friend for the State, you said that this was a simulated resignation. Do you recall that His Lordship asked you why did they want to do a thing like that? -- Yes, I do (20) remember what my answer was.

Do you agree or do you say that to your knowledge it was a simulated resignation? -- Yes, because I knew beforehand that they are going to pretend as if they are resigning, yet they were not resigning, because they had given me reasons as to why they would do that, because they have given me reasons as to why they would do that.

Were you a party to these discussions that they would pretend to resign when in truth and in fact, they would (30) not resign? -- I was not present when they took a decision on

... / that

that, but because of chatting with them, while chatting with them then I came to know about that.

Could you please tell me that whatever the reasons may have been as to why they did this, did they consider it proper behaviour in relation to a person holding public office that he should say at a public meeting he resigns, but to be bluffing the people in relation to their resignation? Did they consider it proper behaviour? -- After they had given me their reasons as to why they wanted to do it that way and having started the situation, that is the perception of the community in the township, I then gave it a thought and understood their reasoning as to why they want to do it that way. (10)

Well, I suppose you will be asked sooner or later what the reasons were for telling a deliberate untruth to a mass meeting of their people. What were their reasons? -- The reasons that they gave were that they were being visited by youngsters who came to ask them to resign and if they do not, something is going to happen to them. This happened on different occasions. That is why they decided to declare false to resignations. Again they said, there was a question mark (20) then, that is the councillors, as to why are they being approached by these youngsters and not grown-up people and if people go to those meetings they go there through intimidations that they will have to attend those meetings. They even went further to say to me even though they are going to attend that meeting, if there are grown-up people at this meeting, then it would mean one thing that those that are there had been intimidated to be there and be present at this meeting. It is not that they are there at their own.

Did they give you to understand that they thought that (30) the people that applauded their resignation at the meeting

... / were

were intimidated to applaud? -- I would not say whether those were the youths or the youngsters who were applauding the people resigning there or not, because I was not in the hall while the meeting was held.

Yesterday again you gave us a different version. -- How?

Yesterday you told us that you had been informed that they had not decided whether they are going to resign or not. They were merely going to the meeting to listen and that they would tell the meeting that they would consider the matter and after considering the matter they would decide what (10) to do. Do you remember that? -- No, I did not say that.

Well, the record will speak for itself. Tell me, who do you say, now as you are standing there, irrespective of what you might have said in the past, yesterday or any other day, made mention of the wheel of progress? -- Andile and Panama, the two of them.

Both of them? -- Yes.

Was it framed in precisely the same way at the second meeting as it had been framed at the first meeting? -- Are we talking about the wheel of struggle in respect of the (20) first or the second meeting?

Listen to the question. Was this idiomatic expression which you spoke to us about yesterday used in precisely the same manner at both meetings? The first and the second meeting? -- No, during the second meeting it was not put in the same way or fashion as it was put in the previous meeting. That is the meeting at which the councillors were present.

What was the difference? -- During the second meeting, what was said was if they do not resign, that would mean (30) they are standing in the way of the wheel of struggle or

progress.

And that is all? -- Yes.

When did you hear for the first time that this was a simulated resignation? -- Two or three days after the previous meeting which was held the previous week.

Could you please tell us for how long this fiction of the non-resignation of councillors that had resigned at a public meeting went on? -- Since the last meeting they had they were members of the community council the whole of the time until 1985. Through 1985 into this year until between (10) March/April 1986 through pressure when they came to know that people discovered that these people lied to them. Then they resigned.

When was the lie discovered? -- It was towards the end of last year, 1985, when they said to me, that is the councillors that there are rumours that the people have discovered that they councillors did not resign at the time that they were saying they are resigning, but they went on as councillors until this year, 1986.

When was there a public admission that there had been (20) a lie told to the people? -- As I say between March and April. Of? -- 1986.

So, for approximately fifteen or sixteen months the people of Summerset East thought that they had no community councillors when in truth and in fact they had a community council. -- I would say so, yes.

And they continued to be community councillors without actually performing any public act as community councillors? -- They continued as usual with their duties as community councillors, except for the meetings that they held, which (30) were secret meetings.

... / And

And if I were to suggest to you that the fact that this was either a simulated resignation or a genuine resignation but that the officials persuaded these councillors shortly thereafter that they should not resign, but that that fact that they continued to be surreptitious councillors was well known to your community, what would you say, within a very short period after their resignation?

COURT : That is throughout 1985.

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MR BIZOS : Throughout 1985. My Lord, there is a dispute, I cannot put it with any confidence as to when this simulated(20) resignation took place, but the gravamen of the question is that it became known to the community shortly after it happened. --I am not in a position to answer that question, because I am not a councillor.

But you are a member of the community? -- Yes, that is so.

And that shortly after these announced resignations the reputation of the councillors in your community reached a very low level in the community, because they were being accused of leading double lives, so to speak? --I would not be able to answer that one. (20)

And that the mayor of the council actually made attempts which were exposed to form a vigilante group in 1985? -- I have no idea of that.

But you do know what vigilante stands for? -- Yes, I do.

And I am going to put to you that he made approaches in your community both - I am sorry to put it - a local rugby team and farm labourers in order to join this group? -- No, I have no idea of that.

And that as a result of this complete breakdown of trust your community has been divided. --I do not know about the (30) community which is divided.

And that these divisions of the community has led to violence, uncontrolled violence committed by different people?

-- From when?

When do you say indiscriminate violence started in your community? -- During the year 1985, March 1985.

I want to deal with the meeting that took place in the beginning of 1985 according to you at the Apostolic Church. Were there any placards announcing that meeting? -- I did not see any.

Did you see any placards at any meeting other than the (10) first meeting? -- Yes, I did.

But there were none at this meeting at the Apostolic Church? -- I would not say they were not there. I did not see them.

COURT : By at the meeting do you mean advertising the meeting in advance of the meeting?

MR BIZOS : In advance of the meeting.

COURT : Will you interpret that for the witness, please. -- Yes, I say I did not see them.

MR BIZOS : If you did not see any placards, did you see (20) any pamphlets advertising the second meeting which we have dealt with and the one that we are about to deal with at the Apostolic Church? Did you see any pamphlets? -- Yes.

Perhaps I should separate this. You told us that there were placards advertising the second meeting that you saw? -- I am not saying there were no placards. I did no see placards advertising the meeting, the second meeting.

Did you see any placards advertising the second meeting? -- No.

You have already told us that you saw no placards adver-(30) tising the third meeting, the Apostolic Church meeting? --

... / That

That is so.

Did you see any pamphlets advertising the Apostolic Church meeting? -- Yes.

What pamphlet did you see? -- A typed pamphlet.

Yes, issued by who? -- Bearing the names of the local organisations.

All three of them? -- That is so.

What did that pamphlet say? -- There was nothing of the meeting in the contents of that pamphlet.

But what did the pamphlet say? -- It was just telling (10) about the date and the venue where this meeting was to be held. In fact saying a mass meeting.

Could you try and place a date on that meeting? -- It is difficult. All I can say is, it was a Saturday.

No month? -- It was during February 1985.

And where did you monitor this meeting from? -- Because of my having had knowledge of this meeting taking place on this date, I made arrangements to use a private car.

Did you go to any nearby house on this occasion? -- No, I was seated in the car. (20)

Throughout the meeting? -- No, no throughout the meeting. I left before the end of the meeting.

Who was the first speaker at this meeting? -- I stopped or I was stationary within a hearing distance from the meeting in this vehicle. All I could hear was that Mr Goniwe was the speaker. He said something about COSAS. What it entailed further I could not say.

You say that the speaker that you heard first was Mr Goniwe? -- I am not saying he was the very first speaker. On my arrival there the meeting had begun and he is the first person I (30) heard speaking.

Do you recall having heard any speaker other than Mr Goniwe at this meeting? -- Yes, I do. Gqobane is the person who spoke there. I do not know wheter he was there as the chairman or what, but I heard him speaking and later I heard Goniwe. It was during the time when I was not within the hearing distance.

For how long did you hear Mr Goniwe speak? -- I cannot quite remember, but I do not think it was more than ten minutes because he was not long in his speech. I remember him ending up by saying that the other things will be discussed in their (10) meetings which will be held with the organisations.

Other than his speaking about the formation of street committees, do you remember anything that Mr Goniwe said? -- I cannot recall whether he spoke about something else, because I will tell you, I at some stage felt that I must leave from the place where I was, because that place in fact was not safe for me. I decided to give way from there before the meeting is out.

I now want to deal with the funeral of the late Deborah Memese. We have been told that the police were on a ridge (20) some distance away from the cemetery. Is that correct? -- Doing what?

Keeping observation. -- Yes, there were police who were keeping observation on the ridge. That is while the funeral was going on.

Were you also on that ridge? -- No.

Where were you? -- I was just in ther vicinity, not far from the church. Just the street behind the church.

Did you proceed to the cemetery? -- No, we did not go to the cemetery. We left the funeral to proceed to the (30) grave-yard.



Where did you go? How near to the cemetery did you go?  
--I went up to as far as the last street from where one can see the grave-yard.

Unfortunately we are not familiar with the area. Can you please tell us how far away it was? -- Almost half a kilometre.

COURT : Is that an open field? -- Yes, it is an open field but now what happened is, we were watching this from an inside street, which is the inside street from the outskirts of the township. (10)

Is between the edge of the township and the cemetery, is that approximately half a kilometre? -- Yes, that is from the outskirts of the township, just outside the township to the grave-yard. That is half a kilometre.

It is open field? -- Yes.

MR BIZOS : Did you see the persons who attended the burial returning towards the home of the deceased? -- When they left the grave-yard we also immediately left patrolling the streets to check on whether there were any barrocades in the streets there. (20)

Did you watch the people going from the grave-yard to the home of the deceased? -- Yes, I met them again while they were now walking in groups in the direction of the deceased's residence.

Did you see whether there were any police vehicles outside the deceased's residence as the groups of people were coming from the cemetery to the home of the deceased? -- No, there were no police vehicles there, because what happened is this. When we met the people in small groups singing freedom songs walking in the direction of the deceased's residence we (30) proceeded to a position just at the back of the beerhall, which

is opposite the deceased's residence from where we were keeping observation. There were no other police vehicles in the immediate vicinity.

Was there a Casspir there at all? -- There was a Casspir which was patrolling the vicinity there, but not in the immediate vicinity of the deceased's residence.

And what about the landrover with the sneeze machine on it? Where was that? -- I only saw that one for the first time in action when the beerhalls were being destroyed.

How many people would you say appeared to be returning(10) to the home of the deceased? Hundreds, thousands? -- Thousands.

Would you agree that there were buckets and other utensils along the fence of the deceased's home at which these thousands of people had to wait in turn to wash their hands? -- I cannot dispute that, though I did not see it, but it is a custom to Black people that hands are to be washed after a funeral.

Why could you not see it? -- Because I was not right in front of the house of the deceased's residence. As I say I took a position at the back of the beerhall, which is in(20) a different street.

Do you know who was in charge of - who was on the Casspir in the vicinity of the deceased's home? Not in the immediate vicinity but around there? -- I cannot recall that.

Do you know whether any order was given to the people who had gathered on the street waiting their turn to wash their hands to disperse? -- I do not know about such an order because I was in another landrover, which was parked in another street.

Are you able to admit or deny that five minutes was (30) given to these persons to disperse? -- I would not be able

to answer to that, because I do not know about it.

COURT : Now you must put it to him it is before the fire started. He does not understand that.

MR BIZOS : There was a five minute opportunity given to disperse. You told us that you were riding around in a landrover. You do not know whether that happened before the beerhall was attacked or not? -- No, I would not know about that.

You would not know about that? -- No.

It could have happened whilst you were driving around in a landrover?-- That is possible, yes. (10)

Are you able to admit or deny that two people went up to the person who gave the order to disperse in order to explain to him what was happening? -- I do not know about that.

Instead of being allowed to be told - instead of being allowed to tell what was happening, the sneeze machine was turned in their direction and the crowd that was in front of the house? -- No, I did not see that happening, because since the time I took position from where I was I could see the front of the house at which the deceased lived. At that time there was nothing happening. People were washing hands normally (20) there.

I thought you said that you did not see that, although you knew that to be the custom? -- What I am saying is that I did not see that happening because I was the first person who came there and there was nothing happening in the immediate vicinity of the deceased's residence.

And do you now - did you notice an any stage that large quantities of food were being prepared for the thousands of people that had attended this funeral? -- Yes, that I saw.

Do you know whether that food was made inedible as a (30) result of the sneeze powder finding its way into it? --

I do not know, because I did not eat that food.

And I am going to put to you that it was as a result of that action that a small group of persons turned against the beerhall which was opposite or nearby this house? -- No, I am not going to be able to answer that one, but what I can say is. After the address by the woman from Cradock, then the beerhall was attacked.

Let me put to you that in the general instructions that we had, there was no mention of any such woman delivering any such speech? -- I saw her. (10)

Could you please tell us whether she was ever arrested? -- When this started, that is the attack there was no way in which we could have approached the scene that is from where the speaker was addressing the thousands, because of the number of people who were there being thousands. We had to attend to different places where incidents were being reported. By the time we came back this woman had left.

Was she ever apprehended? -- I do not know in Cradock, because that was reported to the security.

You do not know whether she was ever charged with boasting that she was a member of the ANC in the church or with the charge that she was inciting the people to commit arson? -- The last I heard about here was when I came to know that the security police had gone to fetch here from her house. (20)

You must have been one of the most important witnesses against this woman because you heard her speak so clearly and loudly? -- Yes, if there was a case opened against her, I was an important witness, but because of things that were happening there, so many things that were happening, it may have slipped the authorities to charge her in a case where I would be called as a witness. (30)

Did you see the landrover with the sneeze machine on it near the home of the deceased at any stage? -- Yes, it was during the time when the places were set alight.

Was the sneeze machine, when you saw it, directing its powder towards the house of the deceased? -- I did not pay particular attention as to what direction the powder was directed because I was also on a landrover which was moving.

I am going to put to you that it was as a result of the actions of the police and more particularly the sneeze machine outside the home of the deceased that indiscriminate (10) violence broke out on the 16th of March 1985? -- I am not confirming that that it was as a result of the police action that this happened.

In relation to the attack on your own home, you have given us the names of the persons who were apprehended and some of whom were convicted? -- Yes.

Without any degree of accuracy which I am sure that His Lordship does not require could you give us the average age of the persons who were apprehended and convicted? -- 19 to 27.

Nobody younger than that? -- No. (20)

You mentioned that one of them was a member of COSAS?  
COURT : Two. The girl was also a member of COSAS. There was a girl and one man. -- That is so.

MR BIZOS : Is that as a result of what they told you after their apprehension? -- That is so.

That is the basis upon which you tell His Lordship that they were members of COSAS? -- That is so.

My Lord, we have some hearsay information in relation to the circumstances of the shooting of the little boy, but I am not going to put what I have on a hearsay basis because of (30) the extraordinary circumstances. We have not been able to get

instructions on a comparatively small number of the aspects that this witness has given evidence. I will conclude my cross-examination but we may have to direct an application for the recall of the witness should we get more specific instructions in relation to some of the events that he has described.

COURT : We will cross that bridge when we come to it.

MR BIZOS : Subject to that, we have no further questions.

HERONDERVRAGING DEUR MNR. HANEKOM : Geen vrae.

ASSESSOR (MNR. KRÜGEL) : Sergeant, how long did you keep observation from your position behind the beerhall on the (10) residence of the deceased? -- Fifteen to twenty minutes.

Longer than five minutes any way? -- Yes.

Were any police vehicles any where near during that time?

COURT : Other police vehicles.

MR KRÜGEL : Other police vehicles. -- No, there were no other police vehicles near the scene there, though there were police vehicles which were patrolling the streets.

Were any of these vehicles equipped with something like a loudspeaker or a loud-hailer? -- I would not say with certainty at which car was a loud-hailer, but there was a loud-(20) hailer in one of the vehicles.

Did you hear it being operated during this period of fifteen to twenty minutes while you were keeping observation? -- No, I did not.

Did you see any policemen patrolling on foot? -- All the police present there were on the van or the Casspir.

To what extent was your view obscured by the actual building of the beerhall and any other buildings that there may have been between you and this crowd and the house? -- It is difficult to describe it orally here, but otherwise (30) if I was given a piece of paper to sort of draw a sketch

to indicate that.

Perhaps you could do that. -- (Witness indicates on a sketch) X is the position from where I was keeping observation.

COURT : What is to be seen here is, we have 4th Avenue and 3rd Avenue running parallel. Then between 4th and 3rd Avenue we have a beerhall and a garage and inbetween the beerhall and the garage there is an open space. You were positioned in 4th Avenue at this open space looking through between the beerhall and the garage onto 3rd Avenue which gives you a (10) view directly onto the deceased's house which is on the opposite side of 3rd Avenue? Is that correct? -- That is so.

RE-CROSS-EXAMINATION BY MR BIZOS : Were you in the landrover at point X? --Yes.

And do you say that point X is almost in direct line with the deceased's house? -- That is so.

Presumably you were in 4th Avenue for the purposes of keeping out of sight of the thousands of people in 3rd Avenue? -- That is so.

So, why did you make yourself such an obvious target(20) by being right in front of the crowd? -- It is not a question that I did not want to be seen. All I wanted was that I must be far from them.

NO FURTHER QUESTIONS.

COURT ADJOURNS UNTIL 23 JUNE 1986.

## **DELMAS TREASON TRIAL 1985-1989**

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