IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA

(TRANSVAALSE PROVINSIALE AFDELING)

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SAAKNOMMER: CC 482/85 DELMAS

1986-04-11

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

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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

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COURT RESUMES ON 11 APRIL 1986.

MR TIP: My Lord I have two sets of admissions to hand up to Your Lordship. If I might just briefly read the nature of the admissions in respect of these to identify the documents.

COURT: The previous sets were numbered I believe.

MR TIP: They were. These will be AAS(4) and AAS(5). AAS(4) reads as follows, that the undersigned accused make the following admissions in respect of the charges against them, which admissions may be recorded as such in terms of Section 220 of the Criminal Procedure Act No. 51 of 1977:

(1) That the persons whose names are set out in the annexure hereto are and/or were members of the organisations as indicated in the said annexure, and

(2) that the persons held the positions in such organisations as indicated, where known, and

(3) where indicated members of such organisations attended one or more meetings of the general council of the United Democratic Front, Transvaal.

That, as with AAS(5), has been signed by all the accused who fortunately are all present today. What follows then is a fairly lengthy annexure containing the names of the individuals and the organisations. The second document, AAS(5), the portion of the admission which is relevant for me to read out is that the documents whose serial numbers are set out in column 1 of the annexure hereto were found in the possession of, or under the control of the persons and/or organisations and/or at the places set out in column 2 of the said annexure. That deals with the documentation through to the AN series. After that there are further documents, AO to AAT, that will be forthcoming very shortly. The State has not yet had an opportunity ....

COURT:/.....

COURT: Would this then mean that these documents which are referred to in this particular document are automatically before Court as exhibits or what is the effect of this admission?

MR TIP: It would be before Court but it would remain for the State to demonstrate what use it can make of them and this particular document does not of course extend to the authorship.

COURT: No obviously, let us just grab a number. Let us say it is AAT or, well let us say it is AX whatever it is, that document is referred to, it is said that this document was let us say published by the UDF, that sort of conclusion one can draw from that document. Does it mean that document AX is before the Court and that the Court can look at it or does the admission merely mean that it still has to be, that it may be handed in without further proof but it has to be referred to by the Prosecutor as a document which he wants to hand in? What is the arrangement?

MR TIP: My Lord that has not been specifically canvassed but I would understand the position to be exactly as though a police officer had come to testify that this is where he found that document...

COURT: And hand the document in?

MR TIP: And hand the document in.

COURT: So can we take it then that those documents referred to in that list of admissions are then as from now before Court?

MR TIP: That is as how I would understand it My Lord.

COURT: Now the next point is then this, obviously you will rely on certain documents and the State will rely on certain documents. One can approach this in two ways, the one can say

well the documents are before Court and we will address the Court at the end of the case on these documents. The other is, and I think that that would make it much easier for all concerned, is that the parties at some stage inform us which portions of which documents they deem particularly relevant so that we can in the meantime get some sort of an idea as to the direction which this case is going. I think this should be discussed, it may well be that that would mean that we take about a day or two just going through documents but it may well also be that that would be worthwhile. (10)

MR TIP: Indeed My Lord. I can say this, that on the basis of my, the time I spent with these documents that it would seem that some focus on particular portions thereof will be of great benefit to all concerned here. The State of course has to some extent indicated the portions that it seeks to rely on in relation to particular averments. With respect I would submit that those references are perhaps themselves still fairly wide and it may well be that a greater focus can be arrived at.

COURT: Well even if they are fairly wide as matters stand (20) at present the references are made in the pleadings and seen from my point of view that would mean that I would have to take the pleadings and get out each document and then sort out on that document on which particular page it is and then start marking it, which will probably take much longer than if the State says well I am taking you through EXHIBIT AS at the moment, at page 5, 10 and 11 there are passages which we deem particularly relevant. But I think this is a matter which can be discussed. It does not arise immediately but at some stage we will have to give some thought to this. (30)

MR TIP: My Lord I will take it up with Mr Fick of the State.

If I might in the meantime hand up AAS(5).

COURT: Yes thank you very much Mr Tip. We will study them.

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

FURTHER CROSS-EXAMINATION BY MR BIZOS: Mr Mahlatsi we were dealing yesterday with EXHIBIT AAQ(24), those are the Minutes of 17 July 1984. -- That is true.

And one of your responses to page 266 et seq. was that that was a mistake?

COURT: The mistake was as far as paragraph 7.11 was concerned. -- That is correct. (10)

MR BIZOS: Now I would like to show you the Minutes of the 21 August 1984 where on 21 August 1984 a number of corrections were made to the Minutes of 17 July, AAQ(24). I would like you to please have a look at it and would you tell His Lordship that although the Minutes had obviously been gone through very carefully and a number of corrections were made none of them relate to 7.11 on page 266 to page 269 of AAQ(24)? -- That is true.

My Lord I do not know if Your Lordship really wants it in as an exhibit. (20)

COURT: I do not think that it is necessary. It is on record now that it was not corrected.

MR BIZOS: That it was not corrected although other minutia were corrected. Thank you. Now ....

ASSESSOR (MR KRüGEL): What was the date of the Minutes there please?

MR BIZOS: 21 August 1984. Mr Mahlatsi Resolution 7.11 discloses the identity of the people who were going to become the owners of these bottlestores. -- Yes it discloses the names of the people. (30)

Now could you point to His Lordship which bottlestores

were/....

were going to be acquired by people who were not councillors -- Prior to doing that I would like to ask the Court to grant me permission to raise an objection on something here?

COURT: Yes. Is your objection against the question or what flows from this question or is your objection against something that is entirely different? -- The objection will be relevant to the questions which may arise as a result of my answer to this question.

Well let us have the objection then. -- The way this question is framed and the way it is being put to me it gives the impression as if these bottlestores were given to people who were councillors or licences were granted to those people who were councillors in respect of these bottlestores.

Yes, the difficulty I have with your objection is that it is not a real objection. You are at present under cross-examination. Counsel has, on instructions from his clients, a certain view of what happened. You are, on the basis of that view he is cross-examining you. If that view is incorrect you are entitled to correct it and place the correct facts before the Court. But you must bear in mind that your answers must be relevant to the questions. Now the question is which persons mentioned in paragraph 7.11 were not councillors? -- As the Court pleases My Lord. Page 267 the name of the person against 1,7.

Yes? That is Mr Tsolo? -- That is right.

Yes? -- The same page against 1,10.

Yes, is Mr Mokoena not a councillor? -- No I made a mistake it is 1,11.

Yes, that is Mr Maseko? -- Yes.

Yes? -- 1,12.

That is Mr Thabe? -- Yes.

Yes? -- 1,8 and 1,13, those referring to Mkuta.

Is that all? -- That is all.

MR BIZOS: Now some of them were to be acquired by the Lentana Company? Is that not so? -- We do not know about that because of the report given here. We did not know whether they were going to be given to them or not.

COURT: No on the basis of this, of the facts set out here at face value it would seem that the Lentana Company would get certain of these businesses? -- No. Let me clarify this. Lentana Company was not yet formed as a company. It was (10) only going to be formed after ascertaining that these people have tendered their applications or given tenders in respect of the particular bottlestores that Lentana Company was going to be formed.

After they had tendered or after their tenders had been successful? -- After their tenders were successful. It is only then that they were going to form this company.

Now is Lentana Company, to be formed, or was it to be formed by the people already set out in this list? -- Some of the people are in this list and some are not. (20)

MR BIZOS: Who are the people who to your knowledge have an interest in the Lentana Company? -- Except those whose names are appearing on the list here?

COURT: It is not entirely clear from the list which of those are also involved in the Lentana Company. Just give us all the names that you can remember. -- On page 266, 1,3 J. Mqina, on the same page, 266, 1,6 E.C. Mahlatsi, page 267, 1,7 M.H. Tsolo, the same page 267, 1,9 N.D. Mpondo, the same page 267, 1,11 M.M. Maseko, page 267 1,12 G. Thabe. Those whose names are not appearing on this list are a person called Coangae (30) from Kroonstad.

COURT:/.....

COURT: What is the first name? -- He is known to me as Oupa his surname is Coangae.

COURT: Oupa, and how do you spell his surname? -- C-o-a-n-g-a-e.

Yes? -- S.R. Rabothape.

Yes? -- Dr Mogese.

Yes? -- Those are the people who I still remember. I have just remember somebody else again, Z. Senjhane.

MR BIZOS: Were any of those persons councillors at any place other than Lekoa? -- No except Rabothape.

Who is Mr Rabothape? -- He is a councillor in Evaton. (10)

Just an ordinary councillor? -- He is the mayor.

Now you told His Lordship that this company had not yet been formed, if I understood you correctly, at the time you voted on this resolution on 17 July 1984?

COURT: No, no that was not stated. It was stated that the company was to be formed as soon as the tenders would be successful.

MR BIZOS: I will ask the question, I am sorry, I misunderstood the position. Had the company been formed by 17 July? -- Not yet, up to date it has not yet been formed. (20)

What percentage of the shares of this company were you going to own? -- It was not yet discussed into details as to what percentage one was going to get. We had just spoken about forming a company.

You see I am going to put to you that this company was lodged and registered on 30 March 1984 according to the information available to the Registrar of Companies in Pretoria? What have you got to say to that? -- Well I have no knowledge about that.

You have no knowledge. (30)

ASSESSOR (MR KRÜGEL): Repeat the date please?

MR BIZOS: The date we have is 30 March 1984. But now tell me how much money were you going to put into this company, you yourself? -- I have already said that we had not come to that decision or to that conclusion as to how much I was going to put in.

Was there any discussion among the prospective shareholders as to what the share capital of the company was going to be in order to acquire these large interests in bottlestores? -- It was not discussed yet because we did not know who was going to succeed from those who had tendered to acquire the businesses. (10)

No but we are talking about your state of knowledge in July 1984 and even before that date you had this list because it had been placed before the Executive Committee? -- There was no decision or resolution taken about this because the Aministration Board were the only people to decide on this.

Well I am going to show you that that is not correct in terms of your own resolution and it could not do it on its own. But let us get some of the facts on record first. Do you agree that 7.11 was placed before the Executive Committee before it was brought to the Council in the form that it appears on AAQ(24)? -- That is true. (20)

Yes. So you knew before this day, 17 July 1984, the identity of the people who had successfully tendered for these bottlestores? -- I only knew about this as a report and not that these are the people who have succeeded in tendering for the businesses.

But the report was that these are the people who have succeeded in this business? -- I have earlier explained to His Lordship that this resolution, the way it is put here before the Court, it had some errors. (30)

Yes./.....

Yes. Tell me would you try and answer the question did you or did you not know on 17 July who the successful tenderers for the bottlestores were, yes or no? -- I only had it noted who possibly can it be that succeeded in tendering for the outlets.

But you know your own resolution said that the selling of the following outlets be accepted by your Council, and this was in this form at the Executive Meeting Mr Mahlatsi.

COURT: Are you entirely being fair? Obviously they had not been notified officially of the acceptance of the tenders (10) because the tenders were not accepted by that stage as the whole thing was subject to the approval of the Department of Co-Operation and Development?

MR BIZOS: Well but My Lord they had been accepted by the Board and it was being accepted by the Council.

COURT: Yes but officially there was no acceptance of the tender.

MR BIZOS: Well My Lord I will rephrase it.

COURT: Legalistically speaking Mr Bizos.

MR BIZOS: I will accept Your Lordship's suggestion. Did (20) you know on 17 July that the Board had accepted you and the others as the would-be buyers of the bottlestores? -- What I knew was we can be some of the people who had been accepted by the Board as the future owners of the liquor outelts.

Yes very well, so you knew that. And you knew that the Lentana Company was the successful accepted tenderer, as far as the Board was concerned, and your Council was being asked to accept that as well? -- I did not know about Lentana.

Who is Mr Jakob Venter? -- I do not know about that person. I hear for the first time about the existence of (30) such a person.

And who are Starfield and Mouton?

COURT: Staf?

MR BIZOS: Starfield ....

COURT: Starfield, S-t-a-r-field.

MR BIZOS: Starfield as one word and Mouton.

COURT: And Mouton.

MR BIZOS: Mouton. Who are they? -- They are new names to me My Lord. I hear about them for the first time.

Well let me inform you that according to the records of the Registrar of Companies in Pretoria Mr Jakob Venter of 10 Trent Drive, Three Rivers, Vereeniging is the sole shareholder and Director of the Lentana (Pty) Limited and Messrs Starfield and Mouton are its auditors and the registered office of the company is at their address, 42 Merriman Avenue, Vereeniging, with effect from 30 March 1984, which for the sake of completeness was notified to the Registrar in terms of Form CM22 lodged at the time of incorporation prior to 30 March. (10)

COURT: Did you ever article Mr Bizos?

MR BIZOS: Oh yes My Lord. (20)

COURT: And you remember how it was done, how these companies were registered?

MR BIZOS: Through attorneys, yes My Lord, I am not ....

COURT: And eventually these shares were transferred ....

MR BIZOS: Yes I have no doubt, I think that I signed a number of Memorandums myself.

COURT: Yes?

MR BIZOS: As a clerk, and Antenuptial Contracts as well. But now you see what I am going to suggest to you that if you know nothing about this, if you the Mayor know nothing about the structure of this company how much less did the (30)

majority/.....

majority of the Councillors know at the meeting of 17 July w they accepted resolutions 7.10 and 7.11? -- My being the mayor is not in fact related with Lentana company, and how this Lentana company got registered I would like to know that as well because it may as well be that it is just a name which has no bearing on us.

Oh yes it must have because its main object is to operate liquor outlets. -- Well I know nothing about it.

COURT: Who in this joint venture which was to become the Lentana company was the man who was to see to the formalities?(1 -- After having acquired the number of people who were interested in joining this company people then who were to look after the formalities in forming this company were going to be myself, Mr Thabe and Mpondo.

MR BIZOS: Did you, as one of the three that was responsible for the formation, ever discuss with anyone else what the share capital of this company was going to be? -- No we have not discussed that.

Well was it without your authority that the registered share capital of the company was given as R1000? -- I have (20) already said that I know nothing about that.

You see, would you not agree that a Council that was agreeing to the conditions that are contained particularly in 7.11, in dispossessing itself in an interest, an interest of valuable assets, should have been .....

COURT: No but that is not correct. It never had the interest. It was the Development Board's interest that was dispossessed by the Development Board.

MR BIZOS: Yes My Lord but one would have thought that a properly instructed Council, a properly informed Council (30) that was going to become the successor of the Board and that

these/.....

these assets were within the area ....

COURT: It was not becoming the successor of the Board. It was becoming the successor of the Community Council with much wider powers. So I think you must put it straight or not at all Mr Bizos.

MR BIZOS: Yes. Let me put it to you this way Mr Mahlatsi, did you think that you, like the Council in Soweto and the Council in the East Rand, should try and get these things as assets of the Town Council? Did you think of that at all? -- That is so. (10)

Was that discussed at the Council meeting? -- It was discussed and the only thing I cannot remember whether it was in a Council meeting or it was in a meeting where we met the Development Board.

At the meeting where the decision was taken, where the things really count, at the meeting where the decision was taken did you or any member of the Executive Committee or any councillor say "Gentlemen we owe a duty to our constituency to preserve this asset for ourselves and not to sell it"? Did anyone raise that question? -- I am the one who in fact (20) made mention of that to the Development Board.

The question was did you or any other Council member at the Council meeting at which this decision was made raise the question that these assets should not be, or the sale of these assets should not be accepted by your Council but that your Council should bid for them? -- The selling of these liquor outlets was not being discussed for the first time at this meeting. It was being discussed even prior to this meeting at different meetings.

I am talking about the meeting of the Council when (30) the Council was asked to accept it. Did anyone raise the

question, yes or no? -- No that question was not asked.

COURT: What had been discussed at prior meetings of the Council or of the Executive Committee? -- When it was known for the first time that the Development Board has decided to sell liquor outlets we questioned this that why is it that immediately when the Council is taking over they decide to sell these liquor outlets.

And then? -- In reply to that question it was said it was a decision of the Cabinet in 1980.

Yes? -- When we questioned this now, saying how about us as a Council then buying these liquor outlets on which it was said Councils have no right, or Local Authorities does not have any right to acquire any business where they are in charge of the community, at the same time the same community is interested in that kind of business. Meaning that we could not acquire that business in which the community was interested.

MR BIZOS: Who told you that? -- The Chief Director of the Development Board.

Is that Mr Ganz? -- That is correct.

I see. Where did Mr Ganz tell you that and at what sort of meeting? -- I cannot quite remember but what I was trying to say was to give the Court these facts as to how they were brought to our attention.

Now was this at a formally constituted meeting of the Executive Committee of the Lekoa Town Council, or the Council itself or was it in private discussions between you and Mr Ganz? -- It was not discussed privately between me and Mr Ganz, nor was it in an Executive Meeting Committee. If my memory serves me well all the Councillors from the Orange-Vaal were present at this meeting where mention was made of this by Mr Ganz.

Can you please tell us the approximate date of that jo- Council, or rather the meeting at which many councillors from various areas were present? -- I cannot quite remember exactly what the date was but I estimate it to be in January, late 1983.

COURT: January 1984? -- That s right. What I wanted to say was late 1983 or January 1984.

MR BIZOS: Was this before or after tenders had been called for? -- If my memory serves me well it was after.

Tenders had been called for? -- If my memory serves me well, yes. (10)

Yes. Now can you please tell us where you personally got any tender documents from? -- If I remember well it was advertised in The Star wherein they said or made mention of the place where to go and get the tender forms, namely the Administration Board offices.

You got a tender form, you personally got a tender form from the Administration offices? -- That is true.

Would it be correct that this pattern in Lekoa of councillors having eventually acquired most of the liquor out- (20) lets is true for the other areas under the control of the Orange-Vaal Development Board? -- I do not know in respect of the other areas.

Did Mr Ganz at this meeting where many councillors were present perhaps warn the councillors that the wrong impression may be created if councillors themselves become the eventual owners of the liquor outlets, that it would be bad public relations? -- No he did not make mention of that.

COURT: What was the purpose of this meeting? Why were you called together? -- That was to come and inform us about (30) the government which says that they now have to sell the

liquor/.....

liquor outlets. What was important there in that meeting was the agreement which was to be made between the councillors or the Councils and the Administration Board as to whether these outlets were be sold or not.

Was it also discussed there what part of the proceeds the Board would have and what part of the proceeds the Councils would get from those sales? -- Yes it was explained. In his explanation Mr Ganz said he will discuss these things, that is the issue of what percentage was going to be given to the Council and what percentage was to be given to the Board, (10) that he will discuss with particular Councils, for instance Lekoa alone and the other Councils alone.

MR BIZOS: Now at the meeting of 17 July did any councillor say "Gentlemen our reputation as public representatives is going to be tarnished if it becomes public that these bottle-stores somehow or other have in the main come into our, councillors, personal hands"? Did anybody raise that? -- No nobody raised that.

As you are there now standing Mr Mahlatsi have you yourself any personal regret at this decision to accept (20) by resolution the plan so that you and your fellow councillors in the main became or are about to become owners of these bottlestores? Have you any regrets?

COURT: I do not think you can say in the main. They were 39 councillors and here we have about eleven I think.

MR BIZOS: Yes I am sorry My Lord, it is the other way around, that the bottlestores in the main were acquired by councillors? -- No I do not regret because I am not the person who was taking decisions on that.

Yes. But .... -- Even myself I had to wait for the (30) decision as to what the decision was.

Just to get it absolutely clear have you no legal or moral doubts about what happened at the meeting of the 17th and the resolution that you voted for? -- No doubt, I do not regret anything.

You do not regret anything. And you did not think that there was anything morally wrong with you making yourself a party in negotiations with the Board, sitting on the Executive Committee, presiding over a meeting which passed this resolution in relation to the bottlestores, you do not regret any of it? -- If one would look at it like this this thing was first in the Executive Committee meeting which referred it to the Council meeting where the Council decided only on the question of the liquor outlets being sold. The Council was not prepared to involved itself in the actually sale. They only gave their resolution in deciding whether these places can be sold or not.

Let me just draw your attention to some of the things. Please have a look at some of the conditions which your Council approved of. Would you please have a look at page 269, paragraph 7. "That the Minister of Industries, Commerce and Tourism be requested not to approve any new liquor licences in the Black residential area of Lekoa until such time as the new owners of the liquor outlets referred to in 1 above has paid off the selling prices in full or if new licences are to be allowed, in which instance the allocation of such licences should be subject to the approval of the Town Council of Lekoa." -- Yes I understand that.

Did you understand it at the time that you voted for it that you were setting the machinery in motion, in giving yourself and some of your fellow councillors a monopoly over the new twenty years? -- At the time of coming to this

resolution pertaining to paragraph 7 on page 269 we did not know yet who were the people who were going to acquire the businesses, that is the liquor outlets. This resolution was just taken without knowing exactly who was taking what and therefore it meant that whoever was going to be given or going to acquire the business would have to communicate with the Administration Board pertaining to this resolution on paragraph 7 page 269.

Well did any Councillor ask "Why have we been given the names" or did you ask "Why are we being given the names who (10) are only prospective and awaiting interested persons, why are only these names given to us", on the agenda on which this draft resolution was? -- It was on those grounds that the Council decided to resolve as referred to on paragraph 7.10, page 266.

COURT: I do not understand your answer. I understood the position to be the following, that the Board in principle accepted certain tenders, that thereby a certain process was set in motion, the process being firstly that the approval of the Town Council would be sought and secondly that there-(20) after the approval of the Department would be sought. So this was part of the process, your dealing with these applications. And it was obviously clear to everybody concerned that should the process be successful throughout the names set out in paragraph 7.11 would be the successful tenderers and that any conditions which would apply would apply to those people. -- I am very sorry, it may be that I was not properly understood in my evidence when I said this portion, as referred to by the witness indicates from 7.11 to the last name of the person on page 267, that is 1.14, now is (30) whispering saying the whole thing in fact from 266 to 269.

Yes,/.....

Yes, that is now 7.11 running from 266 to 269, what abc. it? -- Is incorrect. What I am saying is this thing was entered here by mistake, it was not a resolution by my Council. The only resolution by my Council was about the selling of the liquor outlets only. We did not resolve anything pertaining to the rest of the document.

So what you decided in fact was only 7.10, is that what you are saying? -- That is true.

And that somebody wrote 7.11 into the Minutes? -- That is true. (10)

MR BIZOS: You know Mr Mahlatsi I am going to suggest to you that what you are saying is in fact incorrect. Not only was it passed but it was on the agenda that you received for the meeting. Mr Louw told us that. Would you agree with that? -- It is true it was in the agenda but whatever resolution was to be taken about that, which was in the agenda, was pertaining to paragraph 7.11 on page 266.

COURT: 7.11 or 7.10?

INTERPRETER: 7.11 says the witness. -- What I am saying is what was contained in the agenda was pertaining to 7.11. (20)

COURT: Yes? -- As a result of which the Council decided that what is contained in the agenda, namely pertaining to 7.11, has got nothing to do with the Council. Instead we decided that the Council is going to resolve on what was referred to in this document as 7.10, that is about the selling of the liquor outlets only.

In principle? -- That is so. Now what we must not lose sight of is that 7.10, which we agreed on in principle, was not contained in the agenda, which then results in saying that 7.11 was not supposed to have been contained in the (30) resolutions because it was referred back to the Administration

Board./.....

Board. Therefore it is wrong for it to be contained here ur.. the resolutions.

MR BIZOS: Mr Mahlatsi I am going to come back to my original question and I usually do not forget to come back to them so please try and answer it. When your councillors saw this writing on the agenda did any one of them say that "We see that some of our fellow councillors are soon going to become bottle-store owners, it is bad for our image"? Did any councillor say so? -- No, no one mentioned that.

Right. Did any councillor, please try and answer the (10) questions directly because then we can get on more quickly, did any councillor question the figures that appeared on the agenda that now appear at the bottom of page 268 and the top of page 269 as to how the split was done?

COURT: The split being the division of the purchase price between Town Council of Lekoa and the Oranje-Vaal Development Board?

MR BIZOS: And the Oranje-Vaal Development Board. Did any councillor question that? -- Nobody questioned that.

Nobody. Did you yourself ever question the basis of (20) the split of the purchase price as it appeared, did you yourself ever question it? -- No I did not question that either.

Ever? -- No I did not question that ever, the reason being that if the Court remembers well I said the Development Board said, in fact Mr Ganz in particular said that they were going to hold different meetings with different councils.

Were any meetings held between Mr Ganz and your council in relation to the splitting of the purchase price prior to 17 July or not? -- No I cannot remember any meeting which was held. We did not have a meeting with him. (30)

You did not have a meeting. Do you agree that once the

Board/.....

Board agreed to split the purchase price, that the Board fe.. that there must have either been some legal or some moral obligation to split the purchase price with your council? Or there may have been, I will put a third one, there may have been good administrative reasons for doing that? -- Well I believe those were perhaps the reasons which caused them to decide on the split.

But you were not as a council, you as a council were not a disinterested party in this. -- I was interested.

Yes, and you were also interested personally but we will leave that out for the moment. But as the mayor of the council did you not want to know when you saw these figures on the agenda "But is it not perhaps, cannot we do something to get more"? -- Well as a person I do need more money, I could have opted for more money, yes.

I do not think you understood the question. I do not want an unfair answer to yourself to go on record. Did you not feel that as the mayor of the Council that once this came to your notice that you should not have accepted it without enquiry and debate and negotiation with the other party? -- I am still awaiting for the appropriate time, that is in the meeting we are still going to hold with them.

I see. Now you see can you advance any reason to His Lordship, as an experienced businessman and as a public representative of the people of Lekoa, why you did not ask for instance as to why the R760 935 for the bottlestore that was going to Mr M.B. Mahlatsi, your cousin, only R124 793,34 was going to come to your Council and R636 141,66 was going to go to the Board? Why in that particular instance was the lion's share going to go to the Board and the smaller portion to your council?

COURT: Mr Bizos, he has told you that this resolution was no part of what was resolved and that this aspect he would discuss later at the meeting that was to come with Mr Ganz.

MR BIZOS: Well I find that difficult, with respect ....

COURT: Well if you accept or not accept that it was not resolved, that is a different matter but if you continue cross-examining him on something that was not decided upon by the Board where does it lead us?

MR BIZOS: Where he says that it was not decided. I will change the question. When you saw these figures on the agenda did you question as to why the lion's share was going to the Board, when you saw it on the agenda? -- I have not yet questioned that, as I have already said I was awaiting for an appropriate time to raise that objection. (10)

You see I want to be completely fair because, as to why for instance the situation was the other way around at Zandela, that the lion's share went to the Council and the smaller share to the Board. Were these things questioned at all? This is My Lord on 5.11. -- Well the meeting is still coming where we are going to question that. (20)

As a public representative Mr Mahlatsi would you not agree now that these are questions which would immediately give, or rather these are questions which would immediately be asked by anyone that really has the interest of the body he represents? -- Well I am concerned about things that are related to the community but as long as there is no decision or resolution taken on a certain point then it does not worry me.

You notice that 2.1 just short of a million would be paid to the Co-Operation and Development Orange Board for selling these liquor outlets and, in fairness, fifty percent (30)

of/.....

of that was going to come to the Council? You know that? Or did you know that?

COURT: That is not entirely correct. This amount of nearly a million Rand is an annual payment. It is not money that comes from the selling of the liquor outlets. It is money which is to make up the loss of income by the Board which the State would pay to the Board because the Board has now lost the income of the liquor outlets.

MR BIZOS: I thought that that is ....

COURT: And that would then be split halfway. Half of it would go to the Board and half of it would go to the Lekoa Town Council.

MR BIZOS: Yes My Lord. This is what I tried to put, with respect, that that is correct. Now did anyone on your Council or you yourself at any stage question the correctness of the Board getting approximately half a million Rand a year over and above the purchase price, or the portion of the purchase price and that the Council should not get it perhaps. Did anyone raise it? -- No nobody questioned that.

COURT: But you did raise the matter in your resolution in principle, 7.10 at page 266, where you decided to agree in principle to the selling of the liquor outlets subject thereto that any loss in income as a result of the selling would be made good to the Town Council of Lekoa? -- That is true.

MR BIZOS: But nobody questioned the amount which was apparently fixed in the document on the agenda? -- No nobody questioned that.

Now would you agree that this whole question of the bottle-stores was, without any pun intended, a burning issue in your community prior to 3 September? -- No I do not agree

with/.....

with that.

Do you say that there was no talk, no dissatisfaction expressed, no questions asked about what the Town Councillors of Lekoa had done in relation to the bottlestores? -- I never heard of any talk about that.

Do you find it necessary as mayor to try and keep your finger on the pulse in order to assess the mood of your
C189 people? -- You mean in general or with reference to the bottlestores?

In general and in particular. -- In general that is (10) true but I will only get to know about the feelings of the community through councillors who are representatives of certain wards, as to what the feeling is about a certain thing.

I see. And do you not, did you not pay regard to what was being said at public meetings, in newspapers and other ways in which public opinion was formed? -- From the public meetings that I held nobody came with such a talk.

Yes. Well would you please have a look at EXHIBIT AAQ(12) dated, perhaps ominously, 3 September 1986. (20)

COURT: 1984?

MR BIZOS: 1984, I beg Your Lordship's pardon.

COURT: That s the article in The Sowetan?

MR BIZOS: The article in The Sowetan. Would you like to read it or shall I read it to you quickly?

COURT: Are you going to deal with the various paragraphs or only one?

MR BIZOS: No it does not quote him My Lord.

COURT: Yes, very well.

MR BIZOS: "Opposition groups have called on Lekoa Town (30) councillors to resign following news that they have allocated

themselves bottlestores in the area." If this report is to believed there were calls for your resignation for giving yourselves bottlestores before 3 September 1984? -- There was no such an announcement.

"During previous meetings to protest the increases in house rent and service charges at the weekend leaders of the Vaal Civic Association, Azanian People's Organisation, COSAS and AZANYU lashed out at the Councillors and called on them to resign immediately. Yesterday - that would have been the Sunday 2 September 1984 - Sunday Mirror reported that (10) several community leaders, including the Mayor Mr Esau Mahlatsi and South Africa's soccer supremo Mr George Thabe have been allocated bottlestores costing over fourteen million. The bottlestores are being phased out by the Orange-Vaal Development Board and sold to residents subject to the Minister of Co-Operation and Development's approval. The Reverend Tebogo Moselane said that the bottlestores should have been given to people who have knowledge of the businesses, councillors must stop using their little powers in the Chamber to obtain businesses. An Executive member of the National Taverns (20) Association Mr Ray Monisan said that the action of the Council should be deplored, 'They are just rushing into businesses after acquiring the status they obtained through the low percentage poll.' The association was not worried about the issuing of the liquor outlets to councills, 'We shall continue to build our own stores where our members will support us' he said." Now let us deal with the Sunday, The Sowetan Mirror, or Sowetan Sunday Mirror on that Sunday. Did it have an article in relation to the bottlestores? Reporting that you yourself and Mr George Thabe and other councillors have (30) been allocated bottlestores costing over fourteen million Rand?/.....

Rand? -- Yes I do remember such a report in that paper, news paper. If the counsel had a copy I would like to refresh my memory about the details of the report in that paper.

Yes. One may be available. I have not got it readily available, for which I want to apologise to you and to His Lordship. You appear to be amused Mr Mahlatsi, is there any reason for that? -- No I am not. I accept the apology.

Yes. During that weekend prior to the destruction that took place on the 3rd this question of you acquiring bottle-stores and your fellow councillors acquiring bottlestores (10) must have been on the lips of most of the readers of the Sowetan Sunday Mirror at least? -- I believe so yes.

Yes. Would you agree, generally speaking Mr Mahlatsi, that poor people resent their public representatives profiting from their public office? Over and above, that is over and above getting the stipend that you are receiving to which you are no doubt entitled? -- If what is being put to me is with reference to the bottlestores that is not correct because we are not the people who allocated ourselves the bottlestores.

The question was wheter you agree people resent those (20) holding public office profiting from their holding public office? -- Prior to the people resenting whatever they justify their resentment on must be proved that in fact those in office committed this deed which justifies our resentment on that.

Right. The deal that had been put into the pipeline would have made you and your family owners of bottlestores valued millions of Rands for which you would not have had to put a penny down upfront and which you would have had twenty years to pay. As you are standing there Mr Mahlatsi do you(30) believe that your community was entitled to feel resentful

about/.....

about its mayor on those facts on 2 September 1984? -- I hav already said that it was for the community to prove that I am the one who did that before resenting anything about me.

COURT ADJOURNS FOR TEA. COURT RESUMES.

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

FURTHER CROSS-EXAMINATION BY MR BIZOS: Mr Mahlatsi you will recall that we started off in relation to this resolution of 17 July with the motion that was moved on 16 October 1984 that appears on document AAQ(25). Page 338 of that My Lord. You see I do not want to take up too much time on your con- (10) tention that 17 July was not a Council motion because it speaks for itself, but I wanted to give you an opportunity to explain if you can why when this motion in October 1984 was moved you did not move for the deletion of this motion as....

COURT: Resolution.

MR BIZOS: The resolution, I am sorry, the deletion of the resolution from the Minutes of 17 July? -- It did not occur in my mind.

It did not occur in your mind. Because I am going to suggest to you that your statement that this resolution (20) was a mistake is just a futile attempt by you to get out of the difficulties that it presents to you? -- That is not so.

You have told us that a meeting has not yet been held where this question could be discussed? You recall that before the adjournment you told us that an opportunity has not yet arisen to discuss the matters that I put to you? -- Yes I do remember saying that.

Yes. Well, but there was obviously sufficient time for you to take over the bottlestore last Friday I am instructed? -- Well that is true. (30)

And not only you but all your other fellow councillors

that/.....

that were, whose tenders were accepted? -- That is true.

Yes. And just for the sake of completeness I am instructed that there is quite a rumpus in your community because the people who had been employed there for a long time have been dismissed and your relatives have been put in? -- That is not so.

I see. Right. But you see I am going to suggest to you that the doing of, the performance of this transaction that councillors and those very near the Council brought councillors and the Council system into complete disrepute (10) before 3 September 1984? -- I do not agree with that.

You do not agree. Do you agree that Mr Maseko had been a councillor? -- Your informer made a mistake.

Was Mr Nkuta a candidate? -- Again your informer is making a mistake there.

Did these two people not have anything to do with any Council? -- No.

Did you understand me to refer to Mr Nkuta or Mrs Nkuta? -- You asked me about Mr Nkuta.

Oh yes, then it was my fault and not my informer. My (20) informer tells me that Mrs Nkuta was a candidate? -- Yes Mrs Nkuta was a candidate.

Yes, so the overall general impression had been created that the bottlestores had been shared among certain councillors and some people close to the Councils? -- I do not know whether that is the general feeling from the community or that is the feeling of your informer there.

COURT: Could you clarify an aspect for me please. These liquor outlets were advertised for tender? -- That is true.

I take it that the full tender conditions, including (30) the conditions of sale, were not set out in the advertisement?

-- It/.....

-- It was not.

One had to go to the Administration's offices to get your tender forms? -- That is true.

Did you also get the conditions of tender there at the Administration's offices? -- That is true.

Was it one of the conditions of tender that repayment of the purchase price would be made over a period of twenty years and that in the meantime a loan could be obtained? -- If I remember well that was explained.

Now was it explained in writing or was it explained over the counter? -- If I remember well it was an oral explanation. (10)

What were the written conditions of tender? -- I cannot quite remember what the, I cannot remember what were the conditions unless I will ask from Lawyer Rafin(?). I had to go and ask for the help of a Mr van Rensburg, an attorney, to complete my application forms as a tender because of the lack of the knowledge of the conditions.

Yes thank you.

MR BIZOS: Is Mr van Rensburg not the Board's attorney? (20) -- No.

Very well. We will see those document we hope in due course Mr Mahlatsi, but if you are correct that this facility of not putting any money up front was a verbal communication to you did it occur to you that it might only have been communicated to you and your fellow councillors? -- I did not find out as to who else was coming for a tender. I had gone there for my own tender.

Yes but you know surely there must have been lots of discussions about the formation of the Lentana company? (30) -- Well the company and taking a tender, those are two

different/.....

different things.

Yes what I am going to suggest to you is that for you to say that you did not know what anyone else did just does not ring true Mr Mahlatsi.

COURT: Well what you put to the witness is the oral communication was only made to you and your fellow councillors, did that occur to you. He says I do not know what was told.

MR BIZOS: Yes. But did you not discuss this very favourable condition with your fellow shareholders to be on your version in the Lentana company? -- We only discussed the formation. (10)

Yes. Tell me Mr Majela was he out of favour in 1984 with the majority of the Council? -- I do not know.

Well did he stand for mayor? -- No he did not.

He did not stand as mayor? -- No.

Is he the leader of a party? -- He had a party of his own, yes.

What was the name of his party? -- Mbumba.

Spell it for His Lordship please? -- M-b-u-m-b-a.

Now would you go back to these Minutes please and tell His Lordship whether any person mentioned on page 266 to 267(20) was a member of that party? At the time that this, these tenders were being processed?

COURT: Including or excluding Mr de Beer, Scholz, Rheeder and Grobler?

MR BIZOS: No, My Lord, I take Your Lordship's point but I...

COURT: You mean in paragraph 7.11?

MR BIZOS: 7.11, as Your Lordship pleases. -- None of these people, as far as I am concerned, belonged to the Mbumba Party.

Yes. You see so we have an even further divisive factor have we not Mr Mahlatsi? That it was not only councillors (30) in the main but councillors from one camp. -- I do not know

which camp are you referring to.

COURT: No, actually you belong to a party? -- Yes.

What is the name of your party? -- That is what I wanted him to say, Lekoa People's Party.

Yes, now we have got it. Now are all the councillors involved who are mentioned in paragraph 7.11 members of the Lekoa People's Party? -- Except for 1.9 and 1.10, the rest are members of the Lekoa People's Party.

MR BIZOS: Is that the security policeman Mr Mpondo and Mr Piet S. Mokoena? -- That is true. (10)

Right. You recall that I called you a protege of Mr George Thabe? -- Yes I denied that.

Who was the founder of the Lekoa People's Party? -- A Mr Maroele, M.K. Maroele.

To what party to Mr George Thabe belong? -- Well if you could just allow me to finish the answer in the first question.

Yes please do. -- I said M.K. Maroele together with Muthanyani.

Which party did Mr George Thabe belong to? -- He was in the Lekoa People's Party. (20)

And he was the leader of the Lekoa People's Party when you became a councillor? -- He was not a leader of the Lekoa People's Party.

Was he a leading member of the Community Council who also belonged to the Lekoa People's Party? -- That is true.

And is it just an accident that Mr George Thabe also got a slice of the bottlestore cake or is it because he was a member or is or was a member of the Lekoa People's Party? -- Well the people who allocated according to tenders will be the only people to answer on that one. (30)

I see. There was no love lost between Mr George Thabe

and/.....

and Mr Majela? -- I do not know anything about their love lc.

Well let me remind you of something that may remind you.

COURT: Does it become relevant Mr Bizos? Actually we are busy with a treason trial and not with the inter-party fights.

MR BIZOS: As Your Lordship pleases. I will put it directly because it has a bearing on a previous answer. I am going to put to you that you learned your council politics under Mr George Thabe? -- That is not so.

That Mr Majela when he became the Chairman of the Community Council one of his first acts was to remove Mr (10) George Thabe's name from the Sharpeville Football Stadium. Do you recall that? -- I remember that happening though I cannot say whether that was the first thing he did after becoming the Chairman.

Well one of the first things that he did. And one of the first things you did as mayor, I am instructed, was to rename it the George Thabe Stadium? -- Well that was the decision of the Council, that it be put back.

Under your able leadership? -- I do not know whether I was an able leader or not. All I know is that I was a (20) leader.

COURT: What was it called in between? The stadium, the Majela Stadium? -- No it was named Sharpeville Stadium.

MR BIZOS: Sharpeville Stadium. You see Mr Mahlatsi will put to you finally in relation to these bottlestores that the public perception was that you were the head of a clique on the Council busy feathering your personal nest and the next of your family and the members of your party. -- Well it never reached me that the perception was of the community.

Why did you not recuse yourself in relation to the (30) 7.10 decision, resolution 7.10? The one that you admit being

part/.....

part of the affairs of the Council?

COURT: That is the resolution at page 266 in the Minutes of the Meeting of 17 July 1984, AAQ(24).

MR BIZOS: That is so. Let me make it clear, once you knew that with the help of Attorney van Rensburg you had tendered personally and through a prospective shareholder of a company why did you not recuse yourself and why did you not insist on the other councillors whom you knew to have tendered to recuse themselves? -- As I have already said earlier the Council's decision on this point was that this portion (10) pertaining to 7.11 does not concern the Council and why I remained in the meeting instead of recusing myself was because they were going to decide in principle, which then did not demand my absence from the meeting of that decision.

Did it not occur to you that if the Council did not decide the way it decided in principle the path to your acquiring a bottlestore may have been made more difficult? -- No it did not occur in me.

And the Town Clerk did not advise you? -- No he did not.

And this too, was this on the agenda too and did you (20) have time to consider it? -- Which one now?

7.10.

COURT: Was 7.10 set out on the agenda? -- No it was not on the agenda.

MR BIZOS: You say it was not. Whose idea was it that it should be passed? -- If I remember well it was Piet Mokoena's suggestion.

Yes, Well why did you not rule his suggestion or motion out of order on such an important matter, so that it could be on the agenda properly and proper consideration be given (30) to it? -- If my answer to the question is clear 7.10 was

there/.....

there because of 7.11. If 7.11 was not there then 7.10 would not have been there. Therefore it was decided to take a decision, which is a resolution, about 7.10 and not 7.11.

The Town Clerk told His Lordship that this question was brought to the meeting as a matter of urgency at your request. And that it was as a result of that request that he put 7.11, which would have led to your acquiring bottlestores, on the agenda. Is that evidence incorrect? -- That is incorrect.

The evidence of the Town Clerk is incorrect. Very well. I now want to move to another matter on which you ruled a motion out of order and want to refer you to document AAQ(26). You recall that this is a motion of no confidence against the Mayor, that is yourself, and the Committee of the Lekoa Town Council, the trades committee of the Lekoa Town Council?

INTERPRETER: We do not have that one.

COURT: Have you not got it?

INTERPRETER: No I have not got it.

MR BIZOS: Your Lordship should keep that because I am going to refer to the contents of the Memorandum. Has it been found? Did you rule this motion out of order? The question was, you do not have to read it all now, did you rule this motion which clearly appears on page 460 of the Minutes handed in, did you rule it out of order? -- You will pardon me for having perused it because I wanted to answer on something I understand. Yes I did.

Thank you. Now a reason is given why you ruled that motion out of order. Would you like to read it out aloud to His Lordship?

COURT: Do you want the witness to read paragraph 5.2(ii)?

MR BIZOS: That is so My Lord. -- What paragraph is it?

COURT: Paragraph 5.2 and then (ii), the last paragraph on

page 460. -- It reads as follows: "That the contents of the motion of no confidence in (c) be noted. That in regard to 1 above the motion be disallowed in terms of Regulation 34 of the Standing Orders R2211 for the Black Town Councils promulgated in the Government Gazette no. 8922 dated 7 October 1983 as it has no bearing on the Town Council of Lekoa as it refers to Lekwa Town Council. The other first Town Council of Lekoa is L-e-k-o-a and the motion refers to Lekwa, L-e-k-w-a.

Yes, let me see if we, is the Minute correct? -- Yes.

And is that the reason why you disallowed the motion (10) of no confidence against yourself and your trading committee? -- That was not the only reason.

No, was that one of the reasons? -- That was one of the reasons.

And do you agree that ....

COURT: Yes, I suggest that we use the interpreter.

MR BIZOS: As Your Lordship pleases. Yes, is that the only reason that is recorded? -- That is true.

Right. I just want to understand your reason for this important decision. Is it because of the different spelling (20) or because it was called Lekwa Town Council or both? -- The incorrect spelling is the reason.

The incorrect spelling is the reason. And let me see that His Lordship understands you correctly that you did not want a debate about your personal integrity and the integrity of your trades committee because of the spelling mistake? -- Not because I was going to be discussed in this motion but because the spelling of Lekoa was incorrect, that is why I disallowed this motion.

Now do you not agree that in Southern Sotho the spelling (30) of Lekoa is optional, either the one way or the other? --

That/....

That is not so.

Well let us accept your view that the spelling is absolute. Did you think that perhaps it was referring to a completely different body that this is why you ruled it out of order? -- That was the reason, yes.

I am sorry I did not hear that? -- That is the reason, yes.

Oh I see, that it really referred to another body that had no, that you had no business with? -- That is true.

Before ruling it out of order did you discuss it with (10) the Town Clerk? -- No.

Did you discuss it with the members of the Executive Committee? -- No.

Did you discuss it with any of your fellow councillors? -- No I did not.

You decided all on your own to disallow the discussion of the motion because of what you considered to be a spelling mistake? -- That is true, I am empowered by the law.

You are empowered by the law. Yes. Mr Mahlatsi did it occur to you that as the annexure to this motion was really(20) mainly directed against your reputation for honesty that you should perhaps have vacated the Chair and should have allowed the Deputy Mayor to decide on this matter? -- Was it perhaps that I accepted the motion into the meeting it would be justified for me to stand down from the Chair and give it to my assistant which is the Vice Mayor, but because of the fact that there was an incorrect spelling which I have given as a reason for my disallowing the motion, the spelling being Lekoa, L-e-k-o-a being spelt as Lekwa, L-e-k-w-a, according to the Standing Orders in the Regulation 34 I disallowed (30) that. So therefore there was no reason for me to stand down.

But/.....

But just listen to me for a moment please. -- I have not finished my answer.

Please continue. -- No. 2 I was not against this person putting in the motion with the correct spelling, that is I did not stop that.

Why did you not just pass it over to him and say "Please change the spelling of Lekoa"? And reprimand him that as a councillor he did not spell the name of his council correctly? But nevertheless get down to the substance of things so that it does not appear to the population you represented that (10) you were playing games? -- No that had not occurred to me. I decided to do it according to the procedure and the law.

The procedure. Well may, I would like to assure you that there are many, including me, who would disagree that that is the law. Please have a look at Regulation 34 and tell us in terms of what portion of that regulation you disallowed this motion?

COURT: Is it a long regulation?

MR BIZOS: No My Lord, it is about five lines.

COURT: Yes will you please read the whole of the regulation(20) aloud.

MR BIZOS: The number is 34 as you told us? -- Yes. "The Mayor may disallow any motion or proposal which in his opinion would lead to the discussion on a matter already contained in the agenda or which in his opinion has no bearing on the Council or in respect of which the Council in his opinion has no jurisdiction and he shall disallow any motion or proposal which, if agreed to, would be contrary to the provisions thereof, the financial regulations of the Council or any law. The Mayor may disallow a motion which (30) in his opinion has no bearing on the Council." The section

applied/....

applied by me in disallowing this motion was this one, under this regulation 34. The Mayor may disallow any motion or proposal which in his opinion has no bearing on the Council.

Yes. Now do you agree that properly interpreted that "has no bearing" means that it is not the business of the Council, is is not something that concerns the Council? Is that not what it means? -- That is true because the spelling of Lekoa, the way it was spelt it had no bearing on us, it had nothing to do with us.

Do you agree that in interpreting a document when you(10) make ruling in your opinion you have got to look at the document as a whole? -- Yes I do.

Right. Would you please have a look at page 560 of the Minutes before you? That is portion My Lord of the extract of AAQ(26).

COURT: Yes I have it. Just turn the page there, it is in the same document.

MR BIZOS: It says "I hereby move a motion of no confidence against the Mayor and Trades Committee of the Lekwa Town Council." Did you think that that referred to a council (20) other than yours? -- No because of the spelling in it.

No did you think that it referred to a town council other than yours? -- Yes that is what occurred in my mind.

Which council do you think it was referring to? -- I do not know which council he knew about which was being spelt in this fashion.

Alright. Let us have a look if you are serious about the answer. It says, if we had to read the document as a whole, "The Mayor is abusing, misusing or using his influence over the Trade Committee in allocation of business sites in the(30) areas under the jurisdiction of the Lekwa Town Council. I

therefore appeal to the Orange Development Board for the introduction of the commission of enquiry." Now did you know of any Council called the Lekwa Town Council, spelt k-w-a, under the Orange Development Board's jurisdiction? -- No.

And he gives an example. "Example: Recently the Mayor was allocated a petrol filling station site in Sebokeng, stand 17917 Zone 14." Now is there perhaps another Sebokeng outside your own Council's area? -- No there is none.

I see. Well let us just take it a little bit further before we put the question. "On the very same day during the same interview the Mayor presented his wife, that is Alina Mahlatsi, thus the Mayor's wife was allocated her own house and corner shop on stand 14176 Zone 2 Sebokeng. This shows clear that the mayor stands for the interests of his family." Now did you still have any doubts as to which town council and which mayor was being referred to? -- That is true.

What is true, you still had doubt? -- Yes.

I see.

COURT: When you read this paragraph? -- That is true.

Is your wife's name Alina? -- That is true.

Yes?

MR BIZOS: Mr Mahlatsi... -- Let me just explain something. I want this Court, if it deems it fit, to go and satisfy itself that there was no such an allocation under the Lekoa jurisdiction which took place during the period referred to here.

No I am not asking you at this stage whether the merits or demerits of the statement. I am asking you whether, after reading this whether you still thought that this motion had no bearing on the Council over which you presided as mayor?

-- That/....

-- That is true.

You know I am going to suggest to you, and I want to give an opportunity for you to explain, I am going to suggest to you that you think that you can insult people's intelligence with impunity. -- No that is not so.

Otherwise you would not have given a silly answer like that. -- I find it being the correct answer with sense.

Very well, let us go onto the next point that has arisen as a result of your answer. You say that this did not happen under the Lekoa Town Council that you presided. Did it happen at all? (10)

COURT: What?

MR BIZOS: That there was a transfer of, that there was the grant of a site.

COURT: Now let us have it definite. Did it happen at all that a petrol filling station site in Sebokeng, stand 17917 Zone 14 was allocated? -- Do I understand it to be during the period of the Town Council?

At all, at any stage? -- Yes it did happen.

To whom was it allocated? -- To me. (20)

Did it happen at all that a roadhouse and a corner shop on Stand no. 14176 Zone 2 Sebokeng were allocated? -- Yes it was allocated.

To whom were they allocated? -- To Alina Mahlatsi.

Your wife? -- That is correct.

Now on what possible basis could you have thought that this did not refer to you? -- With all due respect I was under the impression that we are discussing the question of my refusing the motion to be entered in that meeting. We were not discussing the question of issuing of allocation of (30) sites and therefore my decision which I took there had a

bearing/....

bearing on the motion itself and not on the merits contained in the motion. Again my second reason was the spelling of the Council, the name of the Council was playing the most important part here in the sense that it did not refer to the Council I knew to be existing at that time.

MR BIZOS: Well Mr Mahlatsi, My Lord I do not know whether you, as there is only half an hour left whether Your Lordship would excuse accused no. 6 from further attendance today or whether Your Lordship would ask him to be here until 13h00. Apparently there are people waiting. (10)

COURT: That is not necessary. He may go, it is announced that the Court will resume after it has adjourned on Monday morning at 09h00.

MR BIZOS: As Your Lordship pleases. We are indebted to Your Lordship. Mr Mahlatsi as a result of Mr Dison's presence here today and he may not be present on Monday I want to please go onto another aspect in which I believe that you may have been personally involved. Do you recall, well do you know that African Cables is a firm in which many of the people living under your jurisdiction are employed? -- That is true. (20)

Do you recall that during March 1984 there was an industrial dispute in that firm? -- I recall reading about that from a newspaper.

Only from a newspaper? -- That is true.

Are you not the Chairman of the Executive Committee? -- I am.

Yes. Do you not recall that there was an industrial dispute at which 327 people were involved, mainly living in your area? Who were employees of African Cables? -- I remember that one yes. (30)

Do you recall any correspondence coming back, coming onto

your/.....

your committee in which a request was made by Bell, Dewar & Hall who are acting for the 327 people to please accommodate these people for the time being until the Industrial Court ruled on their dispute by not insisting that they should pay their rent timeously and not to eject them whilst this dispute was going on? -- May I have a look at that note?

Yes by all means, here is a letter written by Mr Louw quoting your Executive Committee as authority.

COURT: Is Mr Louw the Town Clerk?

MR BIZOS: The Town Clerk. There are copies My Lord. (10)

COURT: Yes now before we clutter up the record let us wait for the answer.

MR BIZOS: As Your Lordship pleases.

COURT: Yes, do you remember the case? -- I recall this one but I wanted the other one which was addressed to us, the request from the attorneys.

MR BIZOS: Yes. Well we can put that in if you want to. You can have a look at it, I do not mind but His Lordship does not want the, let me give you a complete set if you want it, of which that is the answer. But do you recall, so that we (20) can cut it short do you recall that there was a request that people should not be ejected because there was this dispute? -- Yes I do recall this note.

Now could you hand, well let us see if we can avoid handing in the whole correspondence, if we can agree on the facts very briefly. Do you recall that there was a request that whilst this Industrial Court case was going on that people should not be ejected from their homes? -- Yes I do recall that but these people were not falling under our jurisdiction.

Well do you not recall that there was a request that (30) people who do fall under your jurisdiction should not be

ejected/.....

ejected whilst the Industrial Court was deciding whether the should be reinstated or not and if they were reinstated they would get pay and if they got paid they would pay their rent? -- I do remember that not quite clear.

Well does not Mr Louw's letter remind you of the fact that your Executive Committee refused to assist the people in this predicament? -- It reminds me, though of course again it reminds me about my having not been present at this particular meeting of the Executive Committee which is being referred to here.

Well do you say that you were absent from that meeting?(10) -- If my memory serves me well I was not there.

But when did it come to your notice ... -- May I just go on in answering that?

Yes. -- I remember of an incident where a letter was brought to me by no. 4 accused, More, and in reference to that letter what I said was this will be discussed by the Executive. If that is the letter referred to here then I was not present at that meeting which discussed the contents of the letter.

The letter from Bell, Dewar & Hall that is before you, and when a decision was taken such as Mr Louw recalls that(20) you cannot be of any assistance to these people, and in fact fourteen of them, sixteen of them were ejected, did you have any knowledge of the fact that sixteen people were ejected in your area who asked for assistance and your Executive Committee said no and they made it clear in the letter that the matter is closed, they are not prepared to enter into any further correspondence? -- If I remember well I was not present at that meeting which decided on the issue referred to in the letter written to the attorneys. Again ...

Did it come to your notice .... (30)

COURT: Let the ... -- .... it was not brought to my attention

as/....

as to whether there were any people who were ejected from houses as a result of their failure to pay rentals.

Did you as the Mayor know that of the 270 people involved in this, I am sorry 327 people involved in this dispute 16 of them had chains and padlocks put onto their doors by your Council? -- No I did not come to know about that.

COURT: What is the date of that letter of Bell, Dewar & Hall and the date of Mr Louw's reply?

MR BIZOS: 15 March is the Bell, Dewar & Hall letter.

COURT: Of which year? (10)

MR BIZOS: 1984 My Lord.

COURT: Yes?

MR BIZOS: And the reply of Mr Louw is, refusing on the authority of the committe, 16 April 1984. Now Mr Mahlatsi I want you to please assume the correctness of these facts, that there were these people in an industrial dispute, sixteen of them were locked out of their homes, the Industrial Court ruled in their favour and they got their back pay but by that time they had lost their houses. -- I am not aware of that.

Do you not recall that accused no. 4 and a member of the (20) Engineering and Allied Workers Union came to you and drew your attention to it and you went as far as to promise them that you will see what you can do? -- No I only remember him having been there with the letter of request prior to this meeting being held.

I am going to put to you, at this stage we have no instructions whether you were at the Executive Meeting or not because we have not been favoured with the Minutes of the Executive Committee meetings, but on the facts as I have put them to you would you like to tell His Lordship what per- (30) ception was created in your community as a result of your

Executive/.....

Executive Council's, your Executive Committee's decision? - I do not want to bind myself or pin myself down on that because I only heard about it for the first time today and I am seeing it for the first time here.

Well it could hardly have been a favourable impression that would have been created towards your Council? -- If what you have put to me is true I agree with you.

Yes. Could we return to page 560 please, of EXHIBIT AAQ(26). The second ground of the motion of no confidence in you and the Trading Committee reads as follows: "Two (10) business sites in my ward allocated to Mr Gladstone Phalatsi and Isaac Hlo(?) were deprived then for failing to build within a prescribed time which is one year and these sites were allocated to the Mayor's brother-in-law, that is Mr Adonis Mofokeng." Let us just try and get some of the facts on record. Is Mr Adonis Mofokeng your brother-in-law? -- No he is not.

Is he related to you in any way? -- Not at all.

It is not perhaps because the name is misspelt? Have you got any relative with a similar name, Antoon or something (20) like that? Is it possible that you have got a relative with a similar name? -- No not at all. I am not related to a person with that name or that surname.

Right. Then let us go onto the next one. "Stands on no. 3718", does that mean anything to you? -- No it does not ring a bell to me.

"But" he says "to my utter dismay stand no. 3533 allocated to the late Deputy Mayor the Honourable K.J. Dlamini for the last three years it was not taken away. This site was allocated at the same time as others deprived from Messrs (30)
C190 Hlo and Phalatsi." -- I am not quite certain whether I

remember/.....

remember everything on those facts but there is something I remember which may throw a light to this Court about the issues here.

Yes. Just for the sake of completeness is Mr Sonny Mofokeng your brother-in-law? -- That is true.

COURT: Sonny?

MR BIZOS:. Sonny. You know Mr Mahlatsi why did you toy with us? -- I am not toying.

Why did you not tell His Lordship "My Lord this person is not my brother-in-law's name, first name wrong but my brother-in-law is Mofokeng"? -- Well his names are Sonny Edwin Mofokeng, he is no Adonis.

Yes.

COURT: There are not many Adonis's around these days.

MR BIZOS: You know do you not feel that it is your duty to inform His Lordship of the facts that are to your knowledge to the best of your ability? -- Prior to you having mentioned that I said I remember something on this.

Let me ask you this, was your brother-in-law Mr Sonny Mofokeng allocated a site? -- Where?

Anywhere? Was he allotted a site?

COURT: No, no, to be more clear ....

MR BIZOS: In your area.

COURT: Two business sites. Business sites.

MR BIZOS: Yes two business sites in my ward were deprived then for failure to build ....

COURT: And the award would be at Zandela. -- No.

MR BIZOS: Was your brother-in-law allotted at sites that had been previously allotted to Phalatsi or Hlo?-- No.

Were any sites at all allotted to your brother-in-law? -- Yes.

Where?/.....

Where? -- I am still trying to think in order to remem

Were they awarded to him by the Lekoa Town Council Trade Committee? -- Yes that is the only body which allocates sites.

And were you part of that committee when they were allocated? -- I had just said I am trying to remember these sites. Because not all the sites which were allocated there were allocated with my knowledge or being present when they were allocated.

What is your answer? That there were, there was a site or sites allocated to your brother-in-law and you do not (10) remember where they or it was? -- I cannot quite remember. There is one I can remember now in Zone 3, Residentia, in Zone 3 Residentia I remember there is one there. That is the place where there was an old garage.

Tell me does the number 3718 mean anything to you? -- No. Unless I go and make some references.

Is it correct that the Phalatsi and Hlo lost stands for not building on them within a year? -- If my memory serves me well the sites were taken from them after they completed two and a half years without putting up any structure on the (20) sites.

And were there sites which were given to the late K.J. Dlamini that, who had not done anything on them for at least three years? -- I would like to explain this proper because it seems to me we are busy going around the same thing. When I said may I explain some of the facts in this document here it is because I wanted to explain certain things pertaining to it.

COURT: Yes please give a full explanation now. -- I remember during the year 1983, that is in the time of the Community (30) Council, when the Trade Committee wanted a report about

certain/.....

certain people who were allocated sites and on which sites t was no improvement for the period of two to three years. When that report was brought it had as people who were supposed to have built the names of Phalatsi and the others who are mentioned here. At the time when this was being, this meeting where this report was being discussed I remember pertinently that Dlamini's site did not qualify to the period which was in fact stipulated by the committee for people to have at least put some structures or improved the site. If Dlamini's site was left with him to keep it was as a result of that (10) that he kept the ownership of that site, not that because he was the Deputy Mayor. Those are the facts as far as I can remember. There was quite more than what is being referred to in this document.

MR BIZOS: Could I, have you finished your explanation? -- Yes I have.

Mr Mahlatsi you of course know that Mr Sonny Mofokeng has a very, your brother-in-law has a very close relative who is called Adonis Mofokeng? Do you not? -- Well I do not know about all the people who are related to my brother-in-law. (20)

Do you know that your brother-in-law .... -- I do not even know this Adonis Mofokeng.

Do you not know that your brother-in-law has, one of the members of the family of your brother-in-law Sonny Mofokeng is Adonis Mofokeng?

COURT: In what relation, is it a brother or a far off cousin?

MR BIZOS: I just have an instruction ....

COURT: Families can be very very big.

MR BIZOS: We know that My Lord, that it is possible that that is the case but I have no specific instructions. But it (30) is 13h00 and perhaps ....

COURT ADJOURNS UNTIL 14 APRIL 1986.

DELMAS TREASON TRIAL 1985-1989

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